Supreme Court, U.S.
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No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Isidoro Rodriguez, Esq.,

Petitioner,

v.

HON. LEROY ROUNTREE HASSELL, SR., CHIEF JUSTICE OF THE SUPREME COURT OF VIRGINIA, THE SUPREME COURT OF VIRGINIA, AND VIRGINIA STATE BAR,

Respondents.

On Petition For Writ of Certiorari
to the Supreme Court of the Commonwealth of Virginia

PETITION FOR WRIT OF CERTIORARI

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September 11, 1992

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In retaliation for Petitioner Isidoro Rodriguez ("Rodriguez-father"), taking lawful "action" under Treaty and Va. Code to enforce his statutory rights as a parent and an attorney, he has been injured, punish, stigmatized, defamed and deprived of his property by the Supreme Court of Virginia, and their agent, the Virginia State Bar illegally investigating and issuing *void* orders revoking his license to practice law by their using an illegal attorney disciplinary system which usurped the power granted only to General Assembly to create a "court" and appoint "judges" under the Constitution of Virginia, and violated Va. Code.

QUESTION PRESENTED FOR REVIEW

I. WHETHER THE ORDERS OF THE SUPREME COURT OF VIRGINIA AND THE VIRGINIA STATE BAR ARE *VOID* AS A MATTER OF LAW BECAUSE THEY WERE ISSUED BY AN ATTORNEY DISCIPLINARY SYSTEM THAT USURPS THE POWER GRANTED ONLY TO THE GENERAL ASSEMBLY UNDER ARTICLE I § 1, AND § 7 OF THE CONSTITUTION OF VIRGINIA, AND VIOLATE VA CODE § 54.1-§ 3935?

II. WHETHER THE ORDERS OF THE SUPREME COURT OF VIRGINIA AND THE VIRGINIA STATE BAR ARE *VOID* AS A MATTER OF LAW BECAUSE THEY VIOLATE ARTICLE I § 5 OF THE CONSTITUTION OF VIRGINIA, AND VA CODE § 54.1-§ 3915, AS WELL AS 18 U.S.C. § 242, BY PUNISHING AN ATTORNEY FOR TAKING LAWFUL "ACTIONS" UNDER STATUTORY AUTHORITY?

III. WHETHER BY NOT COMPELLING THE PRODUCTION OF DOCUMENTS, AND THE CALLING/CROSS EXAMINATION OF WITNESSES THERE WAS A DENIAL OF DUE PROCESS AND EQUAL PROTECTION OF THE LAW?

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CITATIONS TO OPINIONS BELOW

The unpublished *void* order of the Supreme Court of Virginia whose review is sought is reproduced at A-1.[1]

STATEMENT OF JURISDICTION

The jurisdiction of this Court is invoked pursuant 28 U.S.C. 1257(a), and under the Court's supervisory authority under Article III to the United States Constitution, *see District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983).

STATEMENT REQUIRED BY S. CT. RULE 29.4

The Court is informed that 28 U.S.C. § 2403(a) and (b), does apply and this Petition has been served upon the Solicitor General of the United States and the Attorney General of the Commonwealth of Virginia. The Supreme Court of Virginia has not certified to the Attorney General that the constitutionality of their rules are called into question for violation of Article of VI, cl. 2 of and 14th Amendment to the U.S. Constitution, Treaty, and Acts of Congress, including 18 U.S.C. § 241, § 242, and § 1204.

U.S. CONSTITUTIONAL PROVISIONS INVOLVED

The Supremacy Clause of the United States Constitution, article VI, clause 2, provides: This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, . . ., shall be the supreme

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[1] "A-" references are to pages in the Appendix.

Law of the Land; and the Judges in every States shall be bound thereby. . . .

Section 1 of the Fourteenth Amendment provides that, "No State shall make or enforce any law which shall . . . deprive any person of . . property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

VIRGINIA CONSTITUTION

Article I, § 11. Due Process of Law; Obligation of Contracts; . . . ; Jury Trial in Civil Cases, provides,[t]hat no person shall be deprived of his . . . property without due process of law; that the General Assembly shall not pass any law impairing the obligation of contracts, . . .That in controversies respecting property, . . trial by jury is preferable to any other . . . .

Article VI, § 1. Judicial power; jurisdiction. — The judicial power of the Commonwealth shall be vested in a Supreme Court and in such other courts of original or appellate jurisdiction subordinate to the Supreme Court as the General Assembly may from time to time establish.

Article VI, § 5. Rules of practice and procedure. — The Supreme Court shall have the authority to make rules governing the course of appeals and the practice and procedures to be used in the courts of the Commonwealth, but such rules shall not be in conflict with the general law as the same shall, from time to time, be established by the General Assembly.

Article VI, § 7. Selection . . . of judges

The justice of the Supreme Court of shall be chosen by vote of the . . . General Assembly. . . . The judge of all other courts of record shall be chosen by the . . . General Assembly . . . .

THE VIRGINIA CODE INVOLVED

Va. Code § 54.1-3910. Organization and government of Virginia State Bar. — The Supreme Court may promulgate rules and regulations organizing and governing the Virginia State Bar. The Virginia State Bar shall act as an administrative agency of the Court for the purpose of investigating and reporting violations of rules and regulations adopted by the Court under this article. . . .

Va. Code § 54.1-3915. Restrictions as to rules and regulations.--- Not withstanding the foregoing provisions of this article, the Supreme Court shall not promulgate rules or regulations prescribing a code of ethics governing the professional conduct of attorneys which are inconsistent with any statute; . . . .

Va. Code § 54.1-3935. Procedure for revocation of license.

A. If the Supreme Court, the Court of Appeals, or any circuit court of this Commonwealth observes, or if a complaint, verified by affidavit is made by any person to such court, that any attorney has . . . violated the Virginia Code of Professional Responsibility, the court may assign the matter to the Virginia State Bar for investigation. Upon receipt of the report of the Virginia State Bar, the court may issue a rule against such attorney to show cause why his license to practice law shall not be revoked. If the complaint, verified by affidavit, is made by a district committee of the Virginia State Bar, the court shall issue a rule against

the attorney to show cause why his license to practice law shall not be revoked.

B. If the rule is issued by the Supreme Court . . . the rule shall be returnable to the Circuit Court of the City of Richmond. At the time the rule is issued by the Supreme Court, the Chief Justice shall designate three circuit court judges to hear and decide the case. . . . In proceedings under this section, the court shall adopt the Rules and Procedures described in Part Six, Section IV, Paragraph 13 of the Rules of Court.

C. Bar Counsel of the Virginia State Bar shall prosecute the case. . . .

D. Upon the hearing, if the attorney is found guilty by the court, his license to practice law in this Commonwealth shall be revoked . . . .

STATEMENT OF THE CASE

Rodriguez-father has been an active member in good standing of the Virginia State Bar since 1982, as well as a member in good standing of the bar of the U. S. Supreme Court, the U. S. Court of Appeals for the 2nd, 3rd, 4th, D.C., and Federal Circuits, the U.S. District Court for the Eastern District of Virginia, and U. S. Tax Court ("Federal Courts".

A. Virginia State Bar Disciplinary Proceedings

i. Federal Entities Bar Complaint VSB No. 04-052-1044, filed In Retaliation for Litigation to Enforce Rights under Treaty and Va. Code.

The record since 2002 is extensive in this Court of Rodriguez-father's litigation to enforce his residual rights to

protect his Son and secure visitation rights in accordance with a Joint Custody Agreement (A-38), including to compel the Federal Entities,[2] and the Virginia Entities,[3] to comply with their ministerial and judicial duty mandated under Treaty,[4] and Va. UCCJEA.[5] *See* Docket Nos.02-1268, 03-301, 04-724, 04-454, 05-545, 05A526, 05A822, 05-1059, 05-5202, and 05-5130.

In retaliation for these "actions" to enforce his rights as a father the Federal Entities filed with the Virginia State Bar a complaint on October 10, 2003, seeking to revoke Rodriguez-father's license to practice law in Virginia.

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[2] The U. S. Department of State, U. S. Department of Justice, the National Center for Missing & Exploited Children, their employees, agent and attorneys Covington & Burling LLP, Proskauer Rose LLP, Eric H. Holder, Jr., Ms. D. Jean Veta, Esq, Marina Braswell, Esq., and Susan Brinkerhoff, Esq. *et al.*, Chief Justice John G. Roberts, District Judge Richard Roberts, District Judge T.S. Ellis III, the U. S. Court of Appeals for the District of Columbia and Fourth Circuit, the U. S. Supreme Court and John Doe *et al.* ("Federal Entities").

[3] The Supreme Court of Virginia, Court of Appeals of Virginia, Fairfax County Circuit Court, and Fairfax County J&D District Court, Office of Attorney General for the Commonwealth of Virginia, and their named employees ("Virginia Entities").

[4]Hague Convention on the Civil Aspects of International Child Abduction Dated October 25, 1980, T.I.A.A. No 11,670, 19 I.L.M. 1501 ("Treaty"); and 18 U.S.C. §§ 241, 242, and 1204.

[5]VA's Uniform Child Custody Jurisdiction and Enforcement Act ("VA UCCJEA"), Va Code § 20-146.01 et seq.

ii. Client's VSB No. 04-052-0794, filed for Litigating to Enforce Statutory Attorney's Lien and prevent Fraud.

The Federal Entities conspired with Rodriguez-father's former clients to file in January 2004 a complaint with the Virginia State Bar, to also revoke his licence for taking "actions" to enforce his perfected Virginia Attorneys Lien pursuant to VA Code § 54.1-3932,[6] and Va. Code § 18.2-499 and 500.[7]

Although all of the "action" were dismissed "without prejudice," and without considering any of the statutory causes of action, in total disregard on the restriction placed on them under Va Code § 54.1-3915, the Virginia State Bar for three years investigated Rodriguez-father for his taking "actions" to enforce his statutory rights.

In 2005, a Criminal Complaint was filed against the Virginia Entities with the Federal Bureau of Investigation for violation of 18 U.S.C. § 241,[8] and § 1204[9] (A-34).

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[6]Virginia State Bar Legal Ethics Opinion (VA Bar LEO") #1325, issued to Rodriguez-father in 1990, confirmed that his fiduciary duty as a Va Attorney was supervised by them and that he had a right to sue for fraud (A-49). *See also Huges v. Cole*, 251 Va. 3 (1996); *Heinz-man v. Fine, Fine, Legion and Fine*, 217 Va. 958 (1977); *see* VA Bar LEO #1606, and #1766, as to the right to enforce a statutory Attorney's Lien.

[7]The record in this Court is extensive of Rodriguez-father's actions to enforce and protect his statutory property rights, *See* Docket Nos. 01-1116, 01-1549, 03-971, 04-867, 05A1143, 06-177, 06A715, 06A619, and 06-875

[8]18 U.S.C. § 241 - Conspiracy against rights, state that, "[i]f two or more persons conspire to injure, oppress, threaten, or

Also in 2005, because Virginia Entities acted outside of their judicial jurisdiction and capacity to obstruct with Rodriguez-father's parental rights in violation of Article of VI, cl. 2 of the Constitution, the Treaty and VA UCCJEA, and to deprive him of his statutory property rights in his perfected Virginia Attorney's Lien, two Virginia Tort Claims Act notices were filed (A-31 and A-41).

Shortly after the filing the Virginia Tort Claims the Virginia State Bar in violation of Va. Code § 54.1-3935, illegally began proceedings to revoke Rodriguez-father license to practice law because he to "actions" to secure his rights as a father (A-38), and enforce his perfected Virginia Attorney's Lien (A-49). During these proceedings the Virginia State Bar denied Rodriguez-father his right to discovery, summon witnesses, right to subpoena *dues tecum*, and right to conduct full cross examination of Virginia State Bar Witnesses. Finally, the Virginia State Bar suborned perjury by permitting their witnesses to falsely testify.[10]

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intimidate any person in any . . . Commonwealth, . . . in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; . . . they shall be fined under this title or imprisoned . . . . (Emphasis added)

[9]18 U.S.C. § 1204 - International parental kidnapping.--(a) Whoever. . . retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title or imprisoned not more than 3 years, or both.

[10]In October 2006, the Supreme Court of Virginia refused to enjoin the Virginia State Bar unauthorized proceedings (A-27).

On October 27, 2006 and November 27, 2006, the Virginia State Bar issued a *void* order revoking Rodriguez-father's license to practice law because of his litigating to enforce/protect his rights as a father under Treaty and Va. UCCJEA (A-24), and his statutory property right in his perfected Virginia Attorney's Lien (A-3).[11]

B. Supreme Court of Virginia Proceedings

On appeal the Supreme Court of Virginia denied to stay the *void* order of the Virginia State Bar.[12] On June 29, 2007,the Supreme Court of Virginia issued a *void* order affirming the *void* order of the Virginia State Bar (A-1).

Subsequently during the past 11 months, based on the *void* orders disbarment of Rodriguez-father has been sought before Federal Courts. However, in response to Rodriguez-father's motion to enjoin and vacate the *void* orders, these courts have taking no action to stop the illegal acts that are injuring and stigmatizing Rodriguez-father

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[11]To injure and stigmatize Rodriguez-father the Virginia State Bar published at www.vsb.om/discilinarv.html, that "[o]n October 27,2006, the Virginia State Bar Disciplinary Board revoked Isidoro Rodriguez's license to practice law. Among other findings, the board determined that Mr. Rodriguez took actions when it was obvious such actions would serve merely to harass or maliciously injure another and engaged in deliberately wrongful conduct that reflected on his fitness to practice law."

[12]VA. Code § 54.1-3935(E) , states that "[t]he attorney, may, as of right, appeal from the judgment of the court to the Supreme Court pursuant to the procedure for filing an appeal from a trial court, ... No stay shall be granted in cases where the attorney's license to practice law has been revoked [by a court]."

thereby preventing him from effectively represent possible clients.

Finally, Rodriguez-father filed in the public interest a Petition for Investigation and Impeachment for the usurping of the authority of General Assembly of Virginia ("General Assembly") to create "courts" and appoint "judges" under the Constitution of Virginia, and for the punishing an attorney for seeking to enforce rights under Treaty and Va. Code (A-28).

REASONS FOR GRANTING THE WRIT OF CERTIORARI

Certainly "the profession of an attorney is of great importance to an individual, and the prosperity of his whole life may depend on its exercise. **The right to exercise it ought not to be lightly or capriciously taken from him.**" *Ex Parte Burr*, 22 U.S. 529, 530 (1824). (Emphasis added)

Just as certain, and of much greater significance than "prosperity," is the importance of an attorney's fundamental right advocate and have access to an impartial court, to petition for redress of grievances. However, the record evidences lack of impartiality and judicial retaliation for taking "actions" to enforce the rights of a father (A-38) in accordance with a Treaty and VA UCCJEA, and property rights under a Virginia Attorney's Lien (A-49). Simply stated: "[t]here is no crueler tyranny than that which is exercised under cover of law, and with the colors of justice . . . ." *U.S. vs. Jannottie*, 673 F.2d 578, 614 (3d Cir. 1982), which has permitted for the past 11 months Rodriguez-

father to be injured, punished, stigmatized, and defamed for taking "action" to enforce his statutory rights (A-1).[13]

I. THE WRIT SHOULD BE GRANTED BECAUSE THE SUPREME COURT OF VIRGINIA USURPED THE POWER GIVEN ONLY TO THE GENERAL ASSEMBLY UNDER ARTICLE I § 1, AND § 7 OF THE CONSTITUTION OF VIRGINIA, AND VIOLATED VA CODE § 54.1-3935, BY ILLEGALLY ESTABLISHING A "COURT" AND APPOINTING "JUDGES" IN THE VIRGINIA STATE BAR ATTORNEY DISCIPLINARY SYSTEM.

History reports that Napoleon at his coronation took the imperial crown out of the hands of the Pope and crowned himself. But under our system of government the Supreme Court of Virginia dose not have a similar prerogative to usurp the authority given only to the General Assembly to create "courts" and appoint "judges" pursuant to Article VI § 1 and § 7 of the Constitution of Virginia.[14]

Therefore based on the clear violations of the restrictions in under Article VI § 1 and § 7 of the Constitution of Virginia, the Supreme Court of Virginia has no authority to promulgate rules which created an attorney disciplinary system with a "kangaroo court" with judicial

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[13]"The law makes a promise. The promise is neutrality. If that promise is broken, the law ceases to exist. All that's left is the dictate of a tyrant, or a mob." *Dababnah v. West Virginia Bd. Of Medicine*, 47 F. Supp.2d 734, 749 (1987).

[14]A judge is generally defined as a public officer authorized by law to hear and determine causes of action and to hold court for that purpose, *Schuster v. Raflowitz*, 245 A.D. 248, 281 N.Y.S. 379 (3d Dep't 1935). The term "judge" may also be broadly defined as meaning any public officer performing judicial function. *Todd v. U.S.* 158 U.S. 278, 15 S.Ct. 889 (1895).

authority and jurisdiction to revoke an attorneys license to practice law in Virginia.[15]

Additionally, Article VI § 5 of the Constitution of Virginia, and Va. Code 54.1-3915, specifically prohibits the Supreme Court of Virginia from promulgating rules which punish as unethical conduct litigation to enforce statutory rights under both Federal and Virginia Code (A-1 and A-3). *See also* 18 U.S.C. § 241 and § 242.[16]

A. Acts Without Judicial Capacity or Jurisdiction

As this Court explained in *United States v. Lee*,106 U.S. 196, 220 (1882),

> **No man in this country is so high that he is above the law.** No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it. It is the only

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[15] The record shows that the Virginia State Bar in fact has been acting as a "kangaroo court"to illegally have a chilling affect on attorneys as advocates, since its proceedings are " characterized by **unauthorized or irregular procedures**, so as to render a fair proceeding impossible. . . . *See* Bryan A. Garner, Black's Law Dictionary, at page 382 (8th ed., 1999). (Emphasis added)

[16] **18 U.S.C. § 242 - Deprivation of rights under color of law,** states that, "[w]hoever, under color of any . . . , regulation, . . . , willfully subjects any person in any . . . Commonwealth, . . . to the deprivation of any rights . . . secured or protected by the Constitution or laws of the United States, . . . , shall be fined under this title or imprisoned not more than one year, or both;. . . .

> supreme power in our system of government, and every man who by accepting office participates in its functions is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes upon the exercise of the authority which it gives.(Emphasis added)

As to the duty to comply with the limitations on judicial authority, Chief Justice Marshall stated in *Cohens v. Virginia*, 6 Wheat, 264, 404 (1816), that ,

> **We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the Constitution.** (Emphasis added)

Consequently, if a judge does not comply fully with his Constitutional authority and limitations then his/her orders are *void*. Assembly.*Morrison v. Bestler*, 387 S.E.2d 753, 239 Va. 166 (1990); *see also, In re Sawyer*, 124 U.S. 200 (1888). "No . . . judicial officer can war against the Constitution without violating his Undertaking to support it." *Cooper v. Aaron*, 358 U.S. 1, 78 S.Ct. 1401 (1958). This is because it is a Constitutional benchmark the courts and its judges have no authority to expand their authority or jurisdiction to usurp the Constitution of Virginia giving power only to the General *See* Petition filed with the General Assembly (A-28).

B. <u>The Orders Are *Void* As A Matter of Law</u>

A *void* order is, "[a] judgement that has no legal force or effect, the invalidity of which may be asserted by any party whose rights are affected at any time and any place, whether directly or collaterally. • **From its inception,**

a void judgement continues to be absolutely null. It is incapable of being confirmed, ratified, or enforced in any manner or to any degree." (Emphasis added) Bryan A. Garner, Black's Law Dictionary, at page 861 (8th ed. 1999).

In Virginia, "[a] *void* judgment is one that has been . . . entered by a court that did not have jurisdiction over the subject matter or the parties." *Rook v. Rook*, 233 V. 92, 353 S.E2d 756, 758 (1987). As explained by the Supreme Court of Virginia in *Morrison v. Bestler,* 239 Va. 166, 167-170, 387 S.E.2d 753 (1990),

> The term jurisdiction embraces . . . subject matter jurisdiction, which is the authority granted constitution or statute to adjudicate a class of cases or controversies. . . .which cannot be waived or conferred on the court by agreement of the parties. *Lucas v. Biller,* 204 Va. 309, 313, 130 S.E.2d 582, 585 (1963). **A defect in subject matter jurisdiction cannot be cured by reissuance of process, passage of time, or pleading amendment. While a court always has jurisdiction to determine whether it has subject matter jurisdiction, a judgment on the merits made without subject matter jurisdiction is null and void.** *Barnes v. American Fert. Co.,* 144 Va. 692, 705, 130 S.E. 902, 906 (1925). **Likewise, any subsequent proceeding based on such a defective judgment is void or a nullity.** *Ferry Co. v. Commonwealth,* 196 Va. 428, 432, 83 S.E.2d 782, 784 (1954). (Emphasis added)

This Court has likewise held that an illegal order exceeding the jurisdiction of the court is forever *void*, and can be attacked in any proceeding in any court where the validity of the judgment comes into issue. *Rose v. Himely,*4 Cranch 241, 2 L ed 608 (1808); *Windsor v. McVeigh*, 93 US

274, 23 L ed 914 (1876); *McDonald v. Mabee* 243 US 90, 37 Sct 343, 61 L ed 608 (1917).

Thus based record of acts outside of judicial capacity or jurisdiction in violation of Article VI § 1, § 5, and § 7 of the Constitution of Virginia, and Va. Code §§ 54.1-3910, 3915, and § 3935, the Virginia State Bar is a "kangaroo court," whose orders revoking Rodriguez-father's license to practice law are *void.*

Furthermore, as noted above on appeal the order of the Supreme Court of Virginia affirming the *void order* is also *void,* because it could not impart any validity to the appealable but *void order* of the Virginia State Bar, *Morrison v. Bestler,* 387 S.E.2d 753, 239 Va. 166, 170 (1990).[17] Finally, based on the violations of the Constitution of Virginia which giva power to only the General Assembly to create "courts" and appoint "judges, the Virginia Stare Bar and Supreme Court's *void* orders could not even be cured and validated by a subsequent action by the General Assembly. See *Scilley v. Red Lodge-Rosebud Irr. Dist.,* 272 P. 543, 83 Mont. 282 (1968). *See also* 50 C.J.S.§ 548.

C. Virginia State Bar Is Without Authority to Conduct Proceeding under Va. Code § 54.1-3935

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[17]*See Dellenbach v. Letsinger,* 889 F.2d 755 (7th Cir. 1989). "[T]he affirmance by an appellate court of a *void* judgment imparts to it no validity...." *Pioneer Land Co. v. Maddux,* 109 Cal. 633, 642 (1895)(Emphasis added); *see also Adohr Milk Farm:, Inc. v. Love,* 255 Cal.App.2d 366, 371 (1967), ". . . a *void order* is appealable does not permit us to consider the appeal on its merits and to affirm [or reverse] the order if we were so disposed, because our affirmance [or reversal] would impart no validity and would be similarly void." Emphasis added.

Pursuant to VA Code § 54.1-3935, the General Assembly mandated that only a "court" is authorized to revoke the license of a Virginia attorney.

However, the Supreme Court of Virginia has usurping the authority granted only to the General Assembly by establishing by its Rules an attorney disciplinary system within the Virginia State Bar. Because there is clearly no jurisdiction or judicial capacity over the subject matter, the Virginia State Bar has not authority to act like a "court" or issue any order as a "judge." Thus all subsequent actions predicated on their *void* orders are tainted by the judgments nullity and are similarly without effect, *Morrison v. Bestler*, 387 S.E.2d 753, 239 Va. 166 (1990).

II. THE WRIT SHOULD BE GRANTED BECAUSE THE SUPREME COURT OF VIRGINIA HAS VIOLATED ARTICLE I § 5 OF THE CONSTITUTION OF VIRGINIA AND VA CODE § 54.1-3915 BY AFFIRMING THE VIRGINIA STATE BAR *VOID* ORDER REVOKING AN ATTORNEYS LICENSE FOR LITIGATING TO ENFORCE HIS RIGHTS UNDER TREATY AND VA. CODE

At the outset, pursuant to "the weil recognize rule of construction that if a rule of the Supreme Court [of Virginia] is at variance with a statutory enactment, the terms of the statute must prevail." 1996 Va. AG 23, at page 2 (Emphasis added). *See* Article VI § 5 of the Constitution of Virginia, and Va. Code § 54.1-3915.

The court's function is to "ascertain and give effect to the intention of the legislature," which is usually self-evident from the statutory language. *Id.* (quoting *Chase v. Daimler Chrysler Corp.*, 266 Va. 544, 547, 587 S.E.2d 521, 522 (2003)). When the statutory language is "clear and unambiguous," the Court must apply "the statute according

to its plain language." *Id.* (citing *HCA Health Servs. v. Levin*, 260 Va. 215, 220, 530 S.E.2d 417, 419-20 (2000)). This is because statutory interpretation is a "pure question of law," *Virginia Polytechnic Inst. & State Univ. v. Interactive Return Serv.*, 271 Va. 304, 309, 626 S.E.2d 436, 438 (2006) (citing *Ainslie v. Inman*, 265 Va. 347, 352, 577 S.E.2d 246, 248 (2003)).

Although the Supreme Court of Virginia has been authorized by the General Assembly to promulgate rules regarding the discipline of attorneys, it has been prohibited from issuing rules in conflict with an attorneys statutory rights by: first, Article VI § 5 of the Constitution of Virginia, states the Supreme Court "shall" have no authority to promulgate "rules governing the course of appeals and the practice and procedures" that "conflict with the general law" established by the General Assembly; and second, Va. Code § 54.1-3915, states "**the Supreme Court shall not promulgate rules or regulations prescribing a code of ethics governing the professional conduct of attorneys which are inconsistent with any statute.**" (Emphasis added) *See* 18 U.S.C. § 242; *seel also* Part 6, § IV, ¶13(C)(5)(a) and (G)(1)(a)(1) and (5) of the Rules of the Virginia Supreme Court.

A. <u>The General Assembly authorized the Virginia State Bar only to investigate and/or prosecute complaints filed with a court.</u>

The Supreme Court of Virginia cannot expand the authority of the Virginia State Bar beyond the limitations mandated by the General Assembly under Va. Code § 54.1-3910 and § 54.1-3935. The Virginia State Bar was restricted by the Va. Code to investigation and/or prosecution of complaints which are properly filed with a

"court" to revoke an attorneys' license to practice law The Virginia State Bar has no authority to revoke the license of a Virginia attorney.

B. The Virginia State Bar Has No Authority to Investigate An Attorney for Exercising His Rights Under VA Code, Treaty and Federal Statute.

The Virginia State Bar is granted only limited authority to investigate and prosecute complaint which do not violate the rights of Rodriguez-father under Treaty, Federal statute, and Va. Code. Article VI § 5 of the Constitution of Virginia, and Va. Code § 54.1-3915. *See* Part 6, § IV, ¶ 13(B)(5)(A)of the Rules of the Virginia Supreme Court.

In conclusion the Supreme Court of Virginia illegally created an attorney disciplinary system in violation of Article VI § 1, § 5 and § 7 of the Constitution of Virginia. It has illegally delegated judicial authority in violation of Va. Code § 54.1-3910, § 54.1-3915, and § 54.1-3935, to permit the Virginia State Bar to act as a "kangaroo court" to revoke Rodriguez's license to practice law, and their actions are *void.*

III. THE WRIT SHOULD BE GRANTED BECAUSE THE ORDERS OF THE SUPREME COURT OF VIRGINIA AND THE VIRGINIA STATE BAR DENIED DUE PROCESS AND EQUAL PROTECTION OF THE LAWS.

A. The Denial of Due Process Under Virginia State Bar Illegal Proceedings .

Because disbarment, is designed to protect the public as a punishment or penalty imposed on the lawyer,

that take away his right to practice his profession. *Ex parte Garland*, 4 Wall. 333, 380, 18 L.Ed. 366 (1841), they are adversary proceedings of a quasi-criminal nature. *Cf. In re Gault*, 387 U.S. 1, 33, 87 S.Ct. 1428, 1446, 18 L.Ed.2d 527. Consequently, Rodriguez-father was entitled to procedural due process, which includes fair notice of the charge, the opportunity to call witnesses, and compel the production of documents. *See In re Oliver*, 333 U.S. 257, 273, 68 S.Ct. 499, 507, 92 L.Ed. 682.

Due process of law is a legal concept that ensures the government will respect all of a person's legal rights instead of just some or most of those legal rights, when the government deprives a person of life, liberty, or property. Due process has also been interpreted as placing limitations on laws and legal proceedings in order to guarantee fundamental fairness, justice, and liberty.

To this end the Fifth Amendment contains a guarantee of basic due process--"No person shall be . . . deprived of life, liberty, or property, without due process of law . . ." The 14th Amendment contains the same verbiage expressly applied to Virginia. The Supreme Court has interpreted the two clauses identically, so under the federal Constitution, there is no substantial difference in protection from federal or State action. In addition, Article 1, § 11 of the Constitution of Virginia has its own guarantees of due process that by their own terms or by case law extend even more protection to individuals than under federal law.

But the record confirms that by the use of a "kangaroo court" the unauthorized illegal attorney disciplinary procedure were not impartial, that actual notice of the alleged wrongs and the facts in support thereof were not given, that the right under Article I § 11 of the Constitution

of Virginia and Va. Code § 54.1-3932, to a jury trial was denied(A-49), and, the right to discovery, the issuance of subpoenas *duces tecum*, and witness subpoenas to permit his right to confront his accusers and to compel the production of documents were denied. In response the Virginia State Bar stated Rodriguez-father could conduct cross examination of their witnesses, but restricted to only issues raised on direct. Thus there was a denial of due process.

B. The Denial Equal Protection of State Laws.

Rodriguez-father was denied his right under Article of VI, cl. 2 of the Constitution to have the Virginia Entities comply with the Treaty to secure visitation with Son,[18] and deprived of his statutory property rights granted by the General Assembly to all Virginia attorneys pursuant to VA Code § 54.1-3932.[19]

Thus, by the imposing the punishment of revoking his license to practice law in retaliation for his litigating to

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[18] In *Canter v. Cohen*, 442 F.3d 196 (4th Cir 2006), the court of appeals made clear that both the Federal Courts and Virginia Entities had a duty to secure a parent's international visitation rights pursuant to the Treaty and VA UCCJEA. *See also* 18 U.S.C. § 1204.

[19] LEO 1606, states that, "[w]hen the attorney is discharged prior to the completion of the representation he may recover the reasonable value of the service which he has rendered . . . and in instances where the fee is contingent upon the outcome of the matter, the attorney may . . . recovery in *quantum merit* for services actually rendered. *See also Virginia Lawyer Register*, Answering Your Questions about Legal Ethics, Anne P. Miche, Assistant Ethics Counsel, Vol 51/No. 8, p. 13, ¶ 17-March 2003.

enforce these statutory rights both the Virginia State Bar and the Supreme Court of Virginia have repeatedly denied Rodriguez-father of his right to equal protection of the laws guaranteed by both the 14th Amendment of the United States Constitution and Article I § 11 the Constitution of Virginia. *See also* 18 U.S.C. § 241 and § 242. Surreally after depriving him of his ability to earn a living and stigmatizing him, the Virginia State Bar responds that they have not violated these restrictions since Rodriguez-father can still litigate to enforce his statutory rights.

C. Denial of Due Process and Equal Protection of the Laws by the Federal Courts

Rodriguez-father's bar membership in the Federal Courts has been placed into question by the *void* orders.[20]

However, despite being advised Rodriguez-father's due process rights,[21] the Federal Courts have denied him

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[20]Based on its policy of "discretionary appellate jurisdiction" under the Judiciary Act of 1925 (43 Stat. 936), to date the Court has repeatedly refused to compel compliance with rights under the Treaty and Va Code. Thus based on this policy to let "issues 'percolate' in the 50 States in the interests of federalism over [its] responsibility to resolve emerging constitutional issues." *Johnson v. Texas*, 509 U.S. 350, 379 (1993)(Justice O'Connor, dissenting), the Court has invited the violation Rodriguez-father's rights by the courts. This cannot be allowed to continue.

[21]"Disbarment being the very serious business that it is, ample opportunity must be afforded to show cause why an accused practitioner should not be disbarred. . . . The short of it is that disbarment by federal courts does not automatically flow from disbarment by state courts." *Theard v. United States*, 354 U.S. 278, 282 (1957); *see Konigsberg v. State Bar,* 353 U.S. 252 (1957).

due process by refusing to review illegal proceedings and vacate the *void* orders: i.e. in this Court for more than 30 days there has been pending before this Court a Motion for Preliminary Injunction (S. Ct No. 07A142); since December 19, 2006, there has been pending before the U.S. Court of Appeals for the Fourth Circuit a Demand for Show Cause Hearing (No. 06-9518); since July 10, 2007, there has been pending before the U.S. Court of Appeals for the District of Columbia, a Motion for Preliminary Inunction (No. 07-5234); since March 3, 2007, there has been pending before the U.S. Tax Court a Demand for a Show Cause Hearing; and, since April 6, 2007, there has been pending before the District of Columbia Court of Appeals a Demand for a Hearing pursuant to D.C. Ct of App. Rule 49.

Apparently based on an improper interpretation of *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983), the Federal Courts for more than 11 month have refused to issue an injunction of the *void* order pursuant to 42 U.S.C. § 1983.

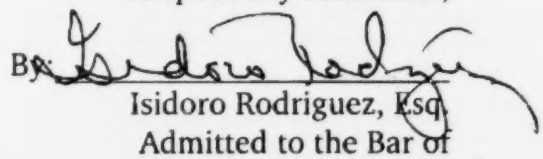
However an injunction should be issued because the *void* order s are acts outside of judicial capacity or jurisdiction. Also this Court has made clear that a state official even in his or her official capacity may be sued, for injunctive relief under § 1983, because official-capacity actions for prospective relief are not treated as actions against the State, *Supreme Court of Virginia et al, v. Consumers Union of the United States, Inc., et al.*, 446 U.S. 719 (1980). Finally the self-impose limitation on the Federal Courts jurisdiction has been over used, for pursuant to remarkable unanimous decision of this Court in *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S.280 (2005), it is noted that "[v]ariously interpreted in the lower courts, the doctrine

has sometimes been construed to extend far beyond the contours of the *Rooker* and *Feldman* cases."[22]

CONCLUSION

For the above reasons, the pending motion before this Court for an Preliminary Injunction and instant Petition must be granted.

Respectfully submitted,



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[22]In *Marshall v. Marshall*, 126 S.Ct. 1735 (2006) Associate Justice Paul Stevens noted, "I would provide the creature [the probate exception to federal jurisdiction] with a decent burial in a grave adjacent to the resting place of the *Rooker-Feldman* doctrine. See *Lance v. Dennis*, 546 U.S. 459 (2006)."

APPENDIX

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1. June 29, 2007, *Void* Order of the Supreme Court of Virginia affirming *void* order of the Virginia State Bar revoking Rodriguez's license to practice law for taking "actions" to enforce his rights under Treaty and Va. Code as a father and Virginia attorney, *Isidoro Rodriguez, Esq. v. Virginia State Bar,* No. 070283 . . . . . A-1

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3. October 25, 2006, *Void* order of the Supreme Court of Virginia refusing to enjoin the illegal *void* procedure before the Virginia State Bar, *Isidoro Rodriguez, Esq. v. Danilo Devis Pereira, et al.,* Record No. 060520 . . . . A-27

4. June 28, 2007, Petition for Impeachment for filed with the General Assembly of Virginia A-28

5. June 9, 2005, Virginia Tort Claims Act claim for violation of rights of father A-31

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8. June 9, 2005, Virginia Tort Claims Act claim for violation of property rights of Virginia attorney A-41

9. February 27, 1990, VSB LEO#1325, confirming right to sue to avoid client fraud A-49

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday *the* 29th *day of* June, 2007.

Isidoro Rodriguez, Esq.

Appellant,

v. Record No. 070283
VSB Docket Nos. 04-052-0794
And 04-052-1044

Virginia State Bar,

Appellee.

Upon an appeal of right from an order entered by the Virginia State Bar Disciplinary Board.

Upon consideration of the record, briefs, and arguments by appellant, in proper person, and by counsel for the appellee, the Court is of the opinion that there is no error in the order of the Virginia State Bar Disciplinary Board (the "Board") revoking Isidoro Rodriguez's license to practice law in the Commonwealth of Virginia based upon finding that he violated Rules 1.2, 1.5, 1.7, 1.16, 3.1, 3.4, 3.7, 4.4, 7.1 and 8.4 of the Virginia Rules of Professional Conduct.

> In reviewing the Board's decision in a disciplinary proceeding, we conduct an independent examination of the entire record. We consider the evidence and all reasonable inferences that may be drawn form the evidence in the light most favorable to the Bar the prevailing party in the Board proceeding. We give the Board's factual finding substantial weight and view them as prima facie correct. While we do not give the Board's

conclusions the weight of a jury verdict, we will sustain those conclusions unless it appears they are not justified by reasonable view of the evidence or are contrary to law. Barrett v. Virginia State Bar, 269 Va. 583, 587-88, 611 S.E.2d 375, 377 (2005) (quoting Williams v. Virginia State Bar, 261 Va. 258, 264, 542 S.E.2d 385, 389 (2001) (citations omitted); see also El-Amin v. Virginia State Bar, 257 Va. 608 612, 514 S.e.2d 163, 165 (1999); Myers v. Virginia State Bar, 226 Va. 630, 632, 312 S.E.2d 286, 287 (1984).

In making its determination, the Board considered allegations that Rodriguez violated the Rules of Professional Conduct during litigation involving two sets of cases. One group of cases involving Rodriguez's relationship and work with Sea Search Armada. The other group involved custody litigation regarding his son. The Virginia State Bar proved by clear and convincing evidence that Rodriguez violated Rules 1.2(a), 1.5(a), 1.16(a)(3), 3.4(I), 7.1(a), and 8.4(b) and (c) in his relationship with and representation of Sea Search Armada, including his attempts to recover unpaid attorney's fees. The Virginia State Bar proved by clear and convincing evidence that Rodriguez violated Rules1.7(b), 3.1, 3.4(d)(h)(i)(j), 3.7(a), 4.4, and 8.4.

We independently review each of the alleged Rule violations and find no error in the Board's order. Accordingly, the order appealed from is affirmed.

Appellant shall pay to the appellee thirty dollars damages.

This order shall be certified to the Virginia State Bar Disciplinary Board.

A Copy,

Teste: /S/

Patricia L. Hanninton, Clerk

BEST AVAILABLE COPY

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF ISIDORO RODRIGUEZ
VSB DOCKET NOS. 04-052-0794 and 04-052-1044

ORDER OF VIRGINIA STATE BAR DISCIPLINARY BOARD

THIS MATTER came on to be heard on the 26th and 27th days of October, 2006, before a panel of the Disciplinary Board consisting of James L Banks, Jr., 1st Vice-Chair, presiding,(the "Chair"), William C. Boyce Jr, Glenn M. Hodge, William F. (Hover, and Stephen A. Wannall, Lay member. The Virginia State Bar ("VSB" or "Bar") was represented by Noel D. Sengel, Senior Assistant Bar Counsel. The Respondent, Isidro Rodriguez, appeared in person and represented himself. The Chair polled the members of the Board Panel as to whether any of them was aware of any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, to which inquiry each member; including the Chair, responded in the negative. Donna T. Chandler, RPR, RMR, CCR of Chandler & Ralasz, court reporter. P.O. Box 9349, Richmond, Virginia, 23227, (804-730-1222) after being duly sworn, reported the hearing and transcribed the proceedings.

The matter came before the Board on the Subcommittee Determination (Corrected Certification) by the Fifth District Committee Section II.

At the beginning of the proceedings the Respondent renewed his motion for the members of the panel to disqualify themselves as being interested patties for the reasons stated in his written motion previously filed. Upon consideration of this motion it was denied by the Panel for

the reasons previously stated in the Board's Order of August 8,2006 that originally addressed Respondent's Motion to Recuse and Disqualify Members of the Disciplinary Board Within the Jurisdiction of N. Virginia and the U.S. Dist. Ct. for the RD. of Va. so to Assure Impartiality.

FINDINGS OF FACT

VSB Exhibits 1-92 were admitted during the course of the hearing without objection. The Respondent's Exhibits 1-42 were admitted during the course of the hearing without objection or over Bar counsel's objection. The VSB presented evidence through its witnesses, the Respondent cross-examined the witnesses and thereafter testified on his own behalf. After consideration of the exhibits and the testimony the Board makes the following findings of fact on the basis of clear and convincing evidence:

VSBNo. 04-052-0794

1. At all times relevant hereto, Isidoro Rodriguez, hereinafter the "Respondent", has been an attorney licensed to practice law in the Commonwealth of Virginia and his address of record with the Virginia State Bar has been 7924 Peyton Forest Trail, Annandale, VA 22003-1560. VSB Ex. 1. The Respondent received paper notice of this proceeding as required by Part Six, IV, 13 (E) and (I)(a) of the Rules of Virginia Supreme Court. VSB Ex. 2.

2. The Complainant, Jack Harbeston, hereinafter referred to as "Harbeston", was the managing director of Sea Search Armada ("SSA") a Cayman Island entity that invests in and conducts searches for sunken treasure ships and engages in the salvage and the recovery of their contents. Sometime prior to 1988 SSA had discovered what it thought to be the remains of sunken Spanish ships off the coast of Colombia. SSA had been unable to have its rights

to any sunken treasure recognized by the government of Columbia and was looking for legal representation in Colombia to assert its claims. Harbeston sought assistance from the Economic Officer at the United States Embassy in Bogota, Colombia for names of attorneys who could represent SSA The Economic Officer provided Harbeston with a list of attorneys in Colombia which included the Respondent as a member of the partnership of Devis and Rodriguez. Harbeston subsequently contacted the Respondent regarding possible legal representation. In his conversation with the Respondent, Harbeston learned that Devis, a Colombian attorney, would handle any litigation on behalf of SSA in the Colombian courts. Harbeston was looking for an American attorney, if possible, because of his concerns as to the potentially divided loyalty of a Colombian attorney. In correspondence between the Respondent and Harbeston, Respondent noted that he was the only attorney licensed in the United States working in Colombia and as such his firm was subject to the same standards as law firm in the United States; that unlike any other firm in Colombia his firm "must comply with the State of Virginia Bar Association's Ethics of Professional Responsibility." VSB Ex. 4.

3. SSA subsequently hired the firm of Devis and Rodriguez. By agreement dated October 20, 1988, the parties entered into a representation agreement prepared by Rodriguez which set forth the terms of the engagement including a fee arrangement on an hourly basis that had been discussed prior to the execution of the agreement. VSB Ex. 7. By affidavit dated October 21, 1988, Harbeston, as managing Director of SSA, authorized the law firm of Devis and Rodriguez to act as SSA's legal representative to pursue its claims in Colombia.

4. In order for SSA to proceed with its claims in Colombia, SSA was required to appoint an agent with broad

powers to represent SSA. By agreement dated December 16, 1988, executed in the District of Columbia, SSA appointed the Respondent as its legal representative in Colombia. Respondent's Ex. 8. However, Harbeston and SSA were concerned with the scope of the general power of attorney appointing Rodriguez as its agent in Colombia (Respondent's Ex. 8) and sought to limit his authority by advising the Respondent that he could only act upon the written authorization of Harbeston. By letter dated December 14, 1988, the Respondent acknowledged this limitation on his authority, noting that any violation of the restriction "will result in an action before The Virginia Bar Ethics Committee". VSB Ex. 9. By memorandum dated December 13, 1988, Harbeston advised all law firms employed by 58.4, including Devis and Rodriguez, that John Erlichman would coordinate and manage all litigation by SSA. VSB Ex. 8.

5. By letter dated January10, 1989 SSA authorized Respondent as its legal representative in Colombia to file a lawsuit against the Republic of Colombia to confirm its rights to the sunken ships. VSB Ex. 12. Thereafter, Devis proceeded to pursue SSA's claims in the courts of Colombia with apparent skill and professionalism to the satisfaction of SSA. Harbeston soon became dissatisfied with the Respondent's performance because of actions he took without written authorization but nevertheless continued the representation arrangement because of his satisfaction with Devis' performance as a litigator. By memorandum to Respondent dated June 9, 1989, (VSB Ex. 13) Harbeston reaffirmed that Respondent was to take no action on behalf of SSA without Harbeston's written authorization as Respondent had acknowledged by his December 14,1988 letter. Sometime thereafter, but prior to January 1990, the law firm of Rodriguez and Devis had dissolved but Devis continued to represent SSA in its ongoing litigation against

the Republic of Colombia. By agreement dated January 3, 1991, Respondent, acting as attorney for SSA, entered into a professional services agreement with Devis to continue with the litigation on behalf of SSA against the Republic of Colombia. This agreement changed the fee arrangement to a contingency fee arrangement whereby Devis would receive 20% of any recovery. VSB Ex. 14. Devis and the Respondent then entered into an agreement to share any contingent fee recovery.

6. By request dated January 3, 1990, the Respondent sought a legal ethics opinion from the VSB that as a Virginia attorney who had entered into a contract in Idaho to be performed in a foreign country, whether he could terminate his representation because the client had failed to pay his fee and could sue the client to collect such a fee. The VSB Ethics Committee gave its opinion on the issue (LEO 1325) that under the facts presented, the Respondent could terminate his representation and sue the client for fees, with the opinion concluding with the customary notice that it was an advisory opinion and not binding on any court. VSB Ex. 18.

7. Devis continued the litigation successfully as the case made its way through the Colombian judicial system as the Colombian government appealed each adverse decision. Respondent does not appear to have played any role in the litigation. By letter dated March 24,2000 Devis advised Respondent not to use his name in Respondent's professional activities, and that Harbeston was upset with Respondent's activities and wanted to revoke the power of attorney. VSB Ex. 15. Devis acknowledged he would honor their contingent fee sharing arrangement By letter dated April 6,2000, Harbeston revoked the general power of attorney from SSA to Respondent (which he had forgotten to do earlier), stating that neither SSA nor its related entities owed Respondent any legal fees and that any

understanding relating to fees was in the agreement between Devis and Respondent to share any contingency fee. VSB Ex. 16.

8. In September of 2000 the Respondent filed suit against SSA in the United States District Court for the Eastern District of Virginia seeking to enforce a claim for attorney's fees in the amount of $4.5 million against SSA. VSB Ex. 19, The Respondent testified that he based the amount of his attorney's fee claim on the annual salary ($300,000 to $400,000) of a legal representative of a United States company in a foreign land for a period of 12 years. Included as defendants in this litigation were Harbeston, related entities to SSA and Devis. None of the defendants were residents of the Commonwealth of Virginia. The Respondent basis for jurisdiction by the federal court in Virginia was the fact that he was a Virginia attorney, Virginia Code Section 54.1-3932 grants an attorney a lien for fees and LEO 1325 which said he could sue his client. The defendants in this litigation obtained the services of Harrison Pledger, a Virginia attorney, who filed a motion to dismiss based on the lack of personal jurisdiction over the defendants. This motion was granted and the suit was dismissed. The Respondent then appealed to the Fourth Circuit Court of Appeals and that court affirmed the District Court's ruling. The Respondent then petitioned for a Writ of *Certiorari* in the United States Supreme Court but that petition was denied.

9. After the denial of The Writ of Certiorari by the United States Supreme Court the Respondent filed a slightly different law suit in the United States District Court for the Eastern District of Virginia against the defendants in the earlier suit and also added several other defendants who were investors in SSA or related entities. VSB Ex. 20. The District Court dismissed this second law suit, finding that the Respondent had failed to plead additional facts to the

first suit to give the court personal jurisdiction over any of the defendants. This ruling was affirmed on appeal to the Fourth Circuit The Respondent then sought a Writ of *Certiorari* from the United States Supreme Court which was also denied.

10. While the appeal of the second lawsuit was pending, the Respondent filed a third similar lawsuit - this time in the Circuit Court of Fairfax County against SSA. In this third lawsuit the Respondent named the defendants in the second law suit and Harrison Pledger and his law firm as defendants. VSB Ex. 21. This law suit was also dismissed but the court denied the defendants' motions for sanctions.

11. The Respondent created a website which displayed false and misleading information regarding his relationship with SSA and his participation in the litigation in Colombia. VSB Ex 24 & 25. On the site, the Respondent claimed that in 1988, at the request of the United States Department of State, he became SSA's legal representative and managing attorney responsible for managing alternative dispute resolution negotiations and outside counsel in litigation against the government of Colombia, posts he claims he held until 2000. These assertions are not true. On his resume, the Respondent listed a LLM Civil law degree from the University of Bordeaux. While the Respondent attended a class at the University of Bordeaux, he never received a degree from that university. The Respondent also listed an American Trial Lawyers Ultimate Trial Lawyer Certification. There is no such certification. The basis for Respondent's claim is the fact that he attended a one week continuing legal education program sponsored byte Association of Trial Lawyers of American titled "Ultimate Trial Advocacy".

12. Respondent, in 2004, while communicating with the U.S. State Department regarding Freedom of Information Act ("FOIA") requests he had made for

information relating to SSA litigation, represented that he was the attorney for SSA notwithstanding the fact that Harbeston had revoked his authority in 2000. VSB Ex. 23. Respondent claimed that since the power of attorney filed with the Colombian government had never been terminated he was not making a misrepresentation in his FOIA request.

VSB Docket No. 04-502-1044

1. The Respondent lived for many years in Colombia and had married Amalin Hazbun Escaf a citizen of Colombia. One son was born of the marriage. The marriage ultimately ended in a divorce in Colombia with the wife/mother obtaining custody of the son by order of a Colombian court with visitation rights to the Respondent.

2. The Respondent subsequently returned to the United States where he has been living and his son visited him pursuant to the visitation rights granted by the Colombian Court. In 2001 while the son was visiting the Respondent the Respondent refused to return his son to Colombia and filed an action in the Juvenile and Domestic Relations Court in Fairfax County to gain custody of his son.

3. In 2001, subsequent to the filing of Respondent's suit in the Juvenile and Domestic Relations Court in Fairfax County, Respondent's ex-wife filed an action in the United States District Court for the Eastern District of Virginia, under the Hague Convention on the Civil Aspects of Child Abduction (the "Hague Convention") and the International Child Abduction Remedies Act ("ICARA") in order to secure the return to Colombia of her son. VSB Ex. 34. In this litigation she was represented by Patrick Stiehm, a Virginia attorney who had undertaken this representation *pro bono* at the request of the National Center for Missing and Exploited Children ("NCMEC"). NCMEC is a non profit corporation that acts as a neutral in facilitating the processing of claims under the Hague Convention and ICARA. When Stiehm initially contacted Respondent to

inform him of the pending litigation, Respondent told Stiehm that his *pro bono* representation would cost Stiehn "a big chunk of change." In keeping with this threat, Respondent immediately filed a motion for sanctions against Stiehn (VSB Ex. 35) but that motion was denied. VSB Ex. 38. However, Respondent's subsequent litigation described herein, which included Stiehm as a defendant, resulted in Stiehm incurring significant legal expenses to respond to meritless and vexatious litigation.. After a bench trial the Court ruled that the Respondent had kept the child in Virginia in violation of his ex-wife's custody rights. VSB Ex. 39. The Court ordered that the child be removed from the Respondent's custody and returned to the child's mother in Colombia The Respondent's appeals to the Fourth Circuit Court of Appeals and the United States Supreme Court were denied. After all appeals and stays were denied the son was reunited with his mother and left for Colombia in June of 2002.

4. In January of 2003, the Respondent filed suit in the District Court for the District of Columbia against numerous defendants, including NCMEC, several employees of NCMEC, the United States District Court for the Eastern District of Virginia, the Fourth Circuit Court of Appeals, the Circuit Court of Fairfax County, the Court of Appeals of Virginia, the District Court for the District of Columbia, the United States Court of Appeals for the District of Columbia, various judges, a court clerk, the United States Department of State, Patrick Stiehm and Stephen Cullen (an attorney who had assisted Stiehm in the Virginia litigation) claiming a constitutional conspiracy by the defendants against him in his litigation in Virginia. VSB Ex. 43. Staff members of NCMEC had been witnesses in the Virginia litigation and NCMEC had provided legal representation to witnesses in the litigation in Virginia. In filing this litigation in which Respondent and his son were named as plaintiffs,

Respondent who is not licensed to practice in the District of Columbia and had not obtained an order to appear *pro hoc vice*, attempted to act as attorney for his son.

5. In March of 2003, the Respondent filed a Writ of Mandamus in an attempt to compel NCMEC to take actions to force the country of Colombia to grant the Respondent access to his son. VSB Ex. 64. By letter dated September 24,2003, Warren L. Dennis, Esquire, counsel for NCMEC, informed the Clerk of the United States Supreme Court that NCMEC would not be filing a responsive brief to the Respondent's Writ because, inter alia, it had no power to compel the government of the country of Colombia to do anything. VSB Ex. 65. Upon receipt of a copy of the letter, the Respondent called Mr. Dennis's office and left a voice mail message in which he threatened to file an ethics complaint because the letter falsely characterized the Respondent's Virginia litigation. Also, by letter dated September 29,2003, the Respondent gave notice of his intent to file a judicial complaint and District of Columbia Bar complaint against those involved in the litigation unless facts already proved were proved within twenty-four (24) hours. VSB Ex 67.

6. In the District of Columbia litigation the Respondent repeatedly filed pleadings with no basis in law or fact. VSB Ex. 43 - 81. In an amended complaint (VSB Ex. 72) Respondent asserted a claim under the Racketeer Influenced and Corrupt Organization Act (RICO) 18 U.S.C. 1961. Included as defendants in the complaint were the United States Supreme Court; the United States Court of Appeals for the Fourth Circuit; the United States Court of Appeals for the District of Columbia, the United States District Court for the Eastern District of Virginia, the United States District Court for the District of Columbia, the Virginia Supreme Court, the Court of Appeals of Virginia and the Circuit Court of Fairfax County. Respondent's

actions in the D.C. litigation clearly demonstrates his use of the legal system to harass and intimidate anyone whom he considered to have been involved in the Virginia litigation that returned his son to Colombia and to re-litigate the Virginia case.

7. Respondent's actions in naming NCMEC and some of its employees as defendants in this litigation cost NCMEC over $160,000 in legal expenses and nearly bankrupted the organization. Throughout the course of this litigation, the Respondent misrepresented his credentials as a lawyer and his license status in the District of Columbia and New York to the courts and opposing parties. The Respondent graduated from law school in 1976. He was first licensed to practice law in the Commonwealth of Virginia in 1982. Virginia is the only jurisdiction in which Respondent has a license to practice law. The Respondent listed a number of governmental and quasi governmental legal jobs in the District of Columbia on his resume between the years 1976 and 1982 requiring a valid law license in the United States, during which period he was not licensed to practice law anywhere in the United States. The Respondent also noted on various documents that he practiced law in the District of Columbia for a period of time after his licensure in Virginia, but has never been licensed in the District of Columbia.

8. During this litigation, the Respondent filed pleadings and attempted to represent his minor son on several occasions in the District of Columbia litigation, despite the fact there was a conflict of interest between the father and son, despite the fact that the Respondent would be a witness in the case and despite the fact that the judge instructed the Respondent to cease representing his son. VSB Ex 48 & 50. The Respondent's law partner also attempted to represent the son but the court refused to permit that representation.

I. MISCONDUCT

The Certification for VSB Docket No. 04-052-0794 charges violations of the following provisions of the Virginia Rules of Professional Conduct:

RULE 1.2 Scope of Representation

(a) A lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (b), (c), and (d), and shall consult with the client as to the means by which they are to be pursued. A lawyer shall abide by a client's decision, after consultation with the lawyer, whether to accept an offer of settlement of a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

RULE 1.5 Fees

(a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer,

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent.

RULE 1.16 Declining Or Terminating Representation

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or where representation has commenced, shall withdraw from the representation of a client if:

(3) the lawyer is discharged.

RULE 3.4 Fairness To Opposing Party And Counsel

A lawyer shall not:

(I) file a suit, initiate criminal charges, assert a position, conduct a defense, delay a trial, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

RULE 7.1 Communications And Advertising Concerning A Lawyer's Services

(a)A lawyer shall not, on behalf of the lawyer or any other lawyer affiliated with the lawyer or the firm, use or participate in the use of any form of public communication if such communication contains a false, fraudulent, misleading, or deceptive statement or claim. For example, a communication or advertisement violates this Rule if it:

(1) contains misleading fee information;

(2) states or implies that the outcome of a particular legal matter was not or will not be related to its facts or merits;

(3) compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated;

(4) contains an endorsement by a celebrity or public figure who is not a client of the firm without disclosure (I) of the fact that the speaker is not a client of the lawyer or the firm, and (ii) whether the speaker is being paid for the appearance or endorsement; or

(5) contains a portrayal of a client by a non-client

without a disclosure that the depiction is a dramatization.

In the determination of whether a communication or advertisement violates this Rule, the communication or advertisement shall be considered in its entirety including any qualifying statements or disclaimers contained therein.

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer;

(c) engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation;

The Certification for VSB Docket No. 04-052-1044 charges violations of the following provisions of the Virginia Rules of Professional Conduct:

RULE 1.7 Conflict of Interest: General Rule

(b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless:

(1) the lawyer reasonably believes the representation will not be adversely affected; and

(2) the client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

RULE 3.1 Meritorious Claims And Contentions

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could

result in incarceration may nevertheless so defend the proceeding as to require that every element of the case be established.

RULE 3.3 Candor Toward The Tribunal

(a) A lawyer shall not knowingly

(1) make a false statement of fact or law to a tribunal;

(2) fail to disclose a fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client, subject to Rule 1.6;

(3) fail to disclose to the tribunal controlling legal authority in the subject jurisdiction known to the lawyer to be adverse to the position of the client and not disclosed by opposing counsel; or

(4) offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and comes to know of its falsity; the lawyer shall take reasonable remedial measures.

RULE 3.4 Fairness To Opposing Party And Counsel

A lawyer shall not:

(d) Knowingly disobey or advise a client to disregard a standing rule or a ruling of a tribunal made in the course of a proceeding, but the lawyer may take steps, in good faith, to test the validity of such rule or ruling.

(h) Present or threaten to present criminal or disciplinary charges solely to obtain an advantage in a civil matter.

(I) File a suit, initiate criminal charges, assert a position, conduct a defense, delay a trail, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another. Effective January 1,2004

(j) Present or threaten to present criminal or disciplinary charges solely to obtain an advantage in a civil matter,

(k) File a suit, initiate criminal charges, assert a position, conduct a defense, delay a trail, or take other action on behalf of the client when the lawyer knows or when it is

obvious that such action would serve merely to harass or maliciously injure another.

RULE 3.7 Lawyer As Witness

(a) A lawyer shall not act as an advocate in an adversarial proceeding in which the lawyer is likely to be a necessary witness except where:

(1) the testimony relates to an uncontested issue;

(2) the testimony relates to the nature and value of legal services rendered in the case; or

(3) disqualification of the lawyer would work substantial hardship on the client.

RULE 44 Respect For Rights Of Third Persons

In representing a client, a lawyer shall not use means that have no purpose other than to embarrass, delay; or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

RULE 5.5 Unauthorized Practice Of Law

(a) A lawyer shall not:

(1) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction: or

(2) assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.

RULE 7.1. Communications Concerning A Lawyer's Services

(a) A lawyer shall not, on behalf of the lawyer or any other lawyer affiliated with the lawyer or the firm, use or participate in the use of any form of public communication if such communication contains a false, fraudulent, misleading, or deceptive statement or claim. For example, a communication violates this Rule if it:

(1) contains false or misleading fee information; or

(2) states or implies that the outcome of a particular legal matter was not OR will not be related to its facts or merits; or

(3) compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated; or

(4) is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law.

RULE 7.4 Communication Of Fields Of Practice And Certification

Lawyers may state, announce or hold themselves out as limiting their practice in a particular area or field of law so long as the communication of such limitation of practice is in accordance with the standards of this Rule, Rule 7.1, and Rule 7.3, as appropriate. A lawyer shall not state or imply that the lawyer has been recognized or certified as a specialist in a particular field of law except as follows:

(a) A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "Patent Attorney" or a substantially similar designation;

(b) A lawyer engaged in Admiralty practice may use as a designation "Admiralty," "Proctor in Admiralty" or a substantially similar designation;

(c) A lawyer who has been certified by the Supreme Court of Virginia as a specialist in some capacity may use the designation of being so certified, e.g., "certified mediator" or a substantially similar designation;

(d) A lawyer may communicate the fact that the lawyer has been certified as a specialist in a field of law by a named organization, provided that the communication clearly states that there is no procedure in the Commonwealth of Virginia for approving certifying organizations. Effective Nov. 1,2002

(a) A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may

use the designation "Patent Attorney" or a substantially similar designation;

(b) A lawyer engaged in Admiralty practice may use as a designation "Admiralty," "Proctor in Admiralty" or a substantially similar designation;

(c) A lawyer who has been certified by the Supreme Court of Virginia as a specialist in some capacity may use the designation of being so certified, e.g., "certified mediator" or a substantially similar designation;

(d) A lawyer may communicate the fact that the lawyer has been certified as a specialist in a field of law by a named organization, provided that the communication clearly states that there is no procedure in the Commonwealth of Virginia for approving certifying organizations.

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer;

(c) engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation; Effective Mar. 25, 2003

(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law.

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law;

III. DISPOSITION

Upon review of the forgoing finding of facts, the exhibits presented by Bar Counsel on behalf of the VSB as Exhibits 1- 92, the exhibits presented by the Respondent as The Respondent's Exhibits 1-42, the evidence from witnesses presented on behalf of the VSB and evidence presented by the Respondent in the form of his own

testimony, and at the conclusion of the evidence regarding misconduct, the Board recessed to deliberate. After deliberation the Board reconvened and stated that it had found by clear and convincing evidence that the Respondent had violated The following Rules of Professional Conduct: in Docket No. 04-052-0794, Rule 1.2(a); 1.5(a); l.16(a)(3); 3.4(I); 7.1(a); 8.4(b) & ©); in Docket No. 04-052-1044. Rule 1.7(b) 1-2; 3.1; 3.4 (d)(h)(i)(j); 3.7(a)(1-3); 4.4 and 8(b) and ©).

The Board stated that the Bar had failed to prove by clear and convincing evidence any violation of the following the Rules of Professional Conduct: 3.3(a)1-4; 5.5(a)l-2; 7.1(a)1-4; 7.4(a)(b)(c)(d); and effective Nov. 1, 2002 7.4(a)(b)(c)(d).

The bases for the Boards finding of violation of the Rules of Professional Conduct are as follows:

VSB Docket No. 04-052-0794

(a) The Respondent violated Rule 1.2(a) (Scope of Representation) in that his authorization to act on behalf of his client SSA was limited, but he nonetheless acted without written authorization from his client. Furthermore, after he had been discharged by SSA, he wrote the Department of State claiming to be the managing attorney of SSA, which was not the case. He also made a FOIA request without any authorization.

(b) The Respondent violated Rule 1.5(a) 1-8 (Fees) with his claim of a fee of 4.5 million dollars. Respondent acknowledged that the fee arrangement was a contingent fee arrangement and no recovery had been made. Therefore, there was no basis to claim a fee. Furthermore, the amount of the fee, $4.5 million, does not appear to have any reasonable relationship to work actually performed which is necessary for a recovery on a quantum merit basis. Respondent testified that he determined the amount based upon what the salary would be for a legal representative for

a U.S. company operating in a foreign country.

(c) The Respondent violated Rule 1.16 (a)(3) (Declining or Terminating Representation) by representing that he was SSA's managing attorney in a FOIA request (VSB Ex. 23), which he made well after SSA had terminated their relationship.

(d) The Respondent violated Rule 3.4(I) (Fairness to Opposing Party and Counsel) by tiling the litigation in the United States District Court for the Eastern District of Virginia and the Circuit Court of Fairfax County, Virginia. It should appear to any reasonably competent lawyer that the courts did not have jurisdiction over the parties named as defendants. Even giving the Respondent the benefit of the doubt as to the first suit, he received a ruling that the court lacked personal jurisdiction over the defendants which was upheld on appeal. He nonetheless filed a second suit with the same infirmity seeking the same recovery. Furthermore, his suit in the Circuit Court of Fairfax County, Virginia, included as a defendant Harrison Pledger and his law firm, merely because Mr. Pledger had acted as defense counsel in the two suits in the federal court

(e) The Respondent violated Rule 7.1(a) 1-5 (Communication Concerning a Lawyer's Services) by misrepresentation on his website and resume. VSB Exhibits 24 and 25 show that Mr. Rodriguez, on the website he created, misrepresented his relationship with SSA. He misrepresented what he did for SSA and how he became employed by SSA. He misrepresented his education by listing an LLM civil law degree from the University of Bordeaux. He improperly claimed a certification (the American Trial Lawyer Ultimate Trial Lawyer Certification) where no such certification exists.

(f) The Respondent violated Rule 8.4(b) and 8.4©) (Misconduct) by representing in his FOIA request that he was the managing attorney for SSA, when the evidence

shows that he clearly was not.

VSB Docket No. 04-052-1044

(a) The Respondent violated Rule 1.7(b) 1-2 (Conflict of interest) in his attempt to represent his son in the District Court for the District of Columbia and his continued actions to do so even in the face of a court ruling that there was a conflict.

(b) The Respondent violated Rule 3.1 (Meritorious Claims and Contentions) by his litigation in the District Court for the District of Columbia and his actions in the Circuit Court of Fairfax County, Virginia. The complaint filed by the Respondent with all the parties he named as defendants standing alone shows that the Respondent has violated this Rule. The numerous pleadings filed thereafter further demonstrate that the Respondent's aim was to punish anyone who had any connection with the litigation filed by his former wife to regain custody of their son. Any attorney who had in any way appeared in that litigation ended up being named as a defendant. NCMEC and several of its staff were named as defendants resulting in a legal cost to NCMEC alone of $160,090.00 Attorney Patrick Stiehm who had taken Respondent's ex-wife's case pro bono was named as a defendant thereby making good on Respondent's claim that Stiehm's representation would cost him a "big chunk of change."

Furthermore, in litigation in Fairfax County, Respondent subpoenaed two members of NCMEC as witnesses for a hearing involving his efforts to file a Statement of the Case for an appeal, when these two staff members had nothing to do with the Fairfax litigation. While the subpoenas were quashed they nevertheless had the effect of harassing the NCMEC staff members. Remarkably this is the only instance in which the Respondent was sanctioned by a court.

Perhaps if he had been sanctioned earlier, either by

the United States District Court for the Eastern District of Virginia or the District Court for the District of Columbia, such action would have put a stop to Respondent's unwarranted and vexatious conduct. Unfortunately neither of the courts saw fit to impose sanctions.

(c) The Respondent violated Rule 3.4(d)(h(i)(j) (Fairness to Opposing Party and Counsel) by the following conduct: (1) by continuing to attempt to represent his son in the District of Columbia litigation in the face of a court ruling, in violation of Rule 3.4(d); (2) by threatening the NCMEC attorney with a bar complaint and filing a criminal complaint with the FBI, in violation of 3.4(h); (3) by filing a motion for sanctions against Patrick Stiehm and naming Stiehm as a defendant in the District of Columbia litigation and by his entire course of conduct in the District of Columbia litigation, in violation of Rule 3.4(i)(j);

(d) The Respondent violated Rule 3.7(a) 1-3 (Lawyer as Witness) by acting as an advocate when he was a necessary witness in the Eastern District of Virginia litigation.

(e) The Respondent violated Rule 4.4 (Respect for the Rights of Third Persons) by the whole course of litigation in the District Court for the District of Columbia. In addition, his subpoena of Ms. Brinkerhoff and Mr. Dennis to the Fairfax Circuit Court for a bearing on the Statement of Facts to be submitted for appeal further demonstrates a violation of this Rule.

(f) The Respondent violated Rule 8.4(b) and 8.4(c) (Misconduct) in asserting a RICO claim and by his letter to the FBI.

Thereafter, the Board received further evidence of aggravation and mitigation from the Bar and the Respondent, including the Respondent's prior disciplinary record. The Board recessed to deliberate what sanction to impose upon its findings of misconduct by the Respondent.

After due deliberation the Board reconvened to announce the sanction imposed. The Chair announced the sanction as REVOCATION.

The Board in reaching its decision of revocation recognized that the violation of certain of the Rules such as Rule 1.5(a), 7.1, and 8.4(b) & (c) standing alone may not merit the ultimate sanction of revocation. However, the Respondent's conduct by pursuing litigation in Virginia in Docket No. 04-052-0794 and in the District of Columbia in Docket No. 04-052-1044 is conduct that cannot be tolerated. While a court through sanctions can protect itself from such conduct by a deceitful and unprincipled attorney, the public must look to the VSB for protection. The other violations demonstrate Respondent's complete disregard for the Rules of Professional Conduct.

Furthermore the Respondent was defiant to any criticism of his conduct in pursuing what can only be described as meritless and vexatious litigation. This same defiance was evident to the Board as the Respondent sought to justify his conduct. Therefore the Board concluded that the sanction of revocation was the only remedy by which the public and bar could be adequately protected.

Accordingly, it is ORDERED that the Respondent's license to practice law in the Commonwealth of Virginia is revoked, effective October 27, 2006.

It is further ORDERED that the Respondent must comply with the requirements of Part Six, § IV, ¶ 13(M) of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the revocation of his license to practice law in the Commonwealth of Virginia, to all clients for whom he is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. The Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with

the wishes of his client The Respondent shall give such notice within 14 days of the effective date of the revocation, and make such arrangements as are required herein within 45 days of the effective date of the revocation. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the revocation that such notices have been timely given and such arrangements made for the disposition of matters.

It is further ORDERED that if the Respondent is not handling any client matters on the effective date of October 27,2006, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13 (M) shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-judge court.

It is further ORDERED that pursuant to Part Six, § IV, ¶ 13,B.8.c. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the Respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to the Respondent at his address of record with the Virginia State Bar, being 7924 Peyton Forest Trail, Annandale, VA 22003-1560, by certified mail, return receipt requested, and by regular mail to Noel 0. Sengel, Bar Counsel, Virginia State Bar, Suite 310, 100 North Pitt Street, Alexandria, Virginia, 22314-3133.

ENTERED this 28th day of November, 2006
VIRGINIA STATE BAR DISCIPLINARY BOARD

By: /S/
James Leroy Banks., Jr. 1st Vice Chair

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Wednesday *the* 25th *day of* October, 2006.

Isidoro Rodriguez, Esq.

Appellant,

v. Record No. 060520
Circuit Court No. CL215327

Danilo Devis Pereira, et al..

Respondents.

Upon a Petition for Writ of Mandamus

On September 28, 2006 came the petitioner, in proper person, and filed a "motion for preliminary injunction and writ of mandamus." Thereupon came the Virginia State Bar Disciplinary System, by the Attorney General of Virginia, and filed a motion to dismiss or, in the alternative, a demurrer.

Upon consideration whereof, the Court grants the motion to dismiss and the motion filed herein is denied and dismissed as frivolous.

Respondent Virginia State Bar Disciplinary System shall recover of the petitioner its costs expended for its defense.

Respondent's costs: Attorney's fee $50.00

A Copy,
Teste:
/S/
Patricia L. Hanninton, Clerk

COMMONWEALTH OF VIRGINIA

IN THE HOUSE AND SENATE OF THE GENERAL ASSEMBLY

PETITION BY ISIDORO RODRIGUEZ, ESQ., FOR IMPEACHMENT FOR MALFEASANCE

June 28, 2007

Pursuant to Article IV § 17 of the Constitution of Virginia, Isidoro Rodriguez, Esq. (Member of the Virginia State Bar in good standing since 1982, Bar No. 21573)("Undersign Counsel"), in has capacity as a father and a Virginia attorney, does petition the House and Senate of the General Assembly of the Commonwealth of Virginia ("General Assembly"), to investigate the Supreme Court of Virginia, the Virginia State Bar, and the Office of the Attorney General, and to impeach each official guilty of for malfeasance in office for violation of the laws of Virginia.

At the outset, the laws are clear. Article VI § 1 of the Constitution of Virginia gives only to the General Assembly the authority to establish in Virginia "courts." Furthermore, Article VI § 5 of the Constitution of Virginia prohibits the Supreme Court of Virginia from promulgating rules trumping the statutory rights granted to both fathers and Virginia attorneys pursuant to Virginia's Uniform Child Custody Jurisdiction and Enforcement Act, Va. Code § 20-146.25 and 35 ("UCCJEA"), and the Hague Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980 ("Treaty"), *see Canter v. Cohen*, 442 F.3d 196 (March 21, 2006); *see also* Congressional Joint Concurrent Resolution 293 of May 23, 2000. Finally, 18 U.S.C. § 241 and § 242, make it a crime to conspire to injure, punish and stigmatize a citizen in retaliation for exercising his federal rights under the Treaty and statute. *See also* Fourteenth Amendment to U.S. Constitution.

However, in total disregard of the above restrictions

the Supreme Court of Virginia promulgated rules to establish an unauthorized attorney "court" disciplinary system within the Virginia State Bar, have intentionally participated in a cover-up of their disregarding the restrictions on their authority, have intentionally stonewalled all efforts for their voluntary correction of their rules, and have criminally conspired against Undersign Counsel for his litigating to enforce his rights as a father, including permitting perjury and fraud upon the court:

•in violation of 18 U.S.C. § 4, § 371, § 1001, and § 1204, from January 2003 to March 2007, the above cited judges and officials did conspire to obstruct the securing of international Undersign Counsel's parental rights under Treaty and UCCJEA
(*see* http://home.earthlink.net/~isidoror;

•in violation of 18 U.S.C. § 241 and § 242, beginning in October 2003 the above cited judges and officials did conspire to injure, punish and stigmatize Undersign Counsel for taking "action" as an attorney to enforce his rights as a father under Treaty and UCCJEA.

The record shows that in violation of Va. Code § 54-1-3915, the Virginia State Bar did for three years illegally investigate Undersign Counsel for his litigating to enforce his rights as a father pursuant to Treaty and UCCJEA, and for his litigating to enforce his perfected statutory property rights in his Virginia Attorney's Lien, Va. Code 54-1-§ 3932, and protect his property from a Business Conspiracy VA Code §§ 18.2-499 and 500.

Subsequently, the Supreme Court of Virginia, and its agent, the Virginia State Bar compounded their unlawful actions by using the "kangaroo court" Virginia State Bar Disciplinary Board in violation of Va. Code § 54-1-3915 and § 54-1-3935, as well as 18 U.S.C. § 242, to conduct illegal proceedings and to issue a *void* orders revoking Undersign Counsel's license to practice law in Virginia for litigating to

enforce his statutory rights as a father and attorney.

The evidence confirms that Undersign Counsel has been punished for exercising his 1st Amendment right to petition the legislature for an investigation, and, for filing a Virginia Tort Claim against the judges for acting outside of their judicial capacity and jurisdiction in violation of Treaty and Va. Code. Thus the record supports the assertions that in the enforcement of the laws of Virginia are too important to leave to officials guilty of intentional acts outside of their official duty in violation of Article VI § 1 and § 5 Constitution of Virginia, Va. Code 54-1-3910, § 3915, § 3935.

The benchmark of the General Assembly's inquiry is *United States v. Lee*, 106 U.S. 196, 220 (1882), wherein the U.S. Supreme Court stated that,

> [n]o man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it. It is the only supreme power in our system of government, and every man who by accepting office participates in its functions is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes upon the exercise of the authority which it gives. (Emphasis added).

Respectfully submitted,

Isidoro Rodriguez, Esq.

Isidoro Rodriguez, Esq.
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LAW OFFICES OF RODRIGUEZ
ATTORNEYS AND COUNSELORS AT LAW

June 8, 2005

Pursuant to VA Code 8.01-195.6, by U.S. Postal Service
Certified Priority Express Mail, Return Receipt Requested

Attorney General for the
Commonwealth of Virginia
900 East Main Street
Richmond, Virginia 23219

Subject: NOTICE OF TORT CLAIM against the Commonwealth of Virginia, The Virginia Supreme Court, the Court of Appeals of Virginia, Judge Rudolph Bumgardner, III, Judge D. Arthur Kelsey, Senior Judge William H. Hodges, the Fairfax County Circuit Court, Judge M. Langhorne Keith, Judge Stanley Paul Klein, the Fairfax Court Juvenile & Domestic Relations District Court, Judge David S. Schell, Judge Charles J. Maxfield, Acting Judge Thomas Mann, and Catherine Crooks Hill, Assistant Attorney General for the Commonwealth of Virginia (Respondents)

Greetings:

Pursuant to the provisions of the Virginia Tort Claims Act, VA Code §§ 8.01-195.1-195.9, this is a notice of claim filed against the above referenced Respondents on behalf of Isidoro Rodriguez, Esq., in his own capacity and as Father and Next of Friend of his 16 year-old son, Isidoro

Rodriguez-Hazbun (Petitioners), based on Respondents repeated and ongoing tortious liability for injuries caused by the intentional deprivation of the father's parental rights in violation of a valid Joint Custody Settlement Agreement, protected under the Constitution of Virginia, the Code of Virginia, the United States Constitution, Treaty, and Federal Statutes, and the Son's rights as a citizen of the Commonwealth of Virginia and the United States.

NATURE OF THE CLAIM, VA Code § 8.01-195.6

Petitioners have maliciously and intentionally been injured by the repeated intentional acts of Respondents all outside of their respective official capacity or judicial functions in furtherance of unauthorized policies and practices, **beginning on or about October 15, 2001 and continuing to the present in the County of Fairfax, Commonwealth of Virginia, including but not limited to the last known acts being on August 18, 2004, January 21, 2005, and March 25, 2005.**

Respondents in furtherance of their unauthorized policies and practices have maliciously conspired to intentionally tortiously disregarded the mandates of both the General Assembly of the Commonwealth of Virginia and the United States Congress, by the following acts including, but not limited to:

a. Illegally violate and deprive Petitioners of their rights to due process and equal protection of the laws under the Constitution of Virginia by disregarding and refusing to comply with Virginia's Uniform Child Custody and Enforcement Act ("UCCJEA) VA Code § 20-146.25, 146. 29, and 146.35.

b. Illegally violate and intentionally failed to comply with the mandate of Article III, § 2 Supremacy Clause of the United States Constitution by repeated intentional refuse to comply with Article 2, 19, 20, 21, and 29 of the the Hague Convention on the Civil Aspects of

International Child Abduction Dated October 25, 1980, T.I.A.A. No 11,670, 19 I.l.m. 1501; 42 U.S.C. § 11601(b)(4).

c. Illegally conspire to act outside of their official capacity and judicial authority for almost 1095 days in violation of 18 U.S.C. § 1204, Article 16 of the Treaty, and the requirements to protect parental rights under the Virginia Code, *see generally* VA Code § 16.1-283, by intentionally depriving and obstructing Petitioner Isidoro Rodriguez, Esq.'s parental rights under a valid Joint Custody Settlement Agreement, subsequent to the unlawful shanghaiing of Isidoro Rodriguez-Hazbun to the Republic of Colombian from the Commonwealth of Virginia, against his rights and best interest as a citizen of the United States.

Agencies and Individuals to be held liable[1]

If I fail to hear from your office after six months, I will immediate file the necessary action to seek a trial by jury on all issues so to protect both my Son's and my rights.

Thank you.

Sincerely,

Isidoro Rodriguez, Esq.

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[1]All Respondents are licensed attorneys of the Virginia State Bar. Virginia Rules of Professional Conduct, Rule 4.1, states that, "[i]n the course of representing a client a lawyer shall not knowingly: (a) Make a false statement of fact or law; or (b) fail to disclose a fact when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client. *See also* DR 7-102(A)(5) and DR 7-102(A)(3); Rule 1.6 and 3.3(a)(4).

LAW OFFICES OF RODRIGUEZ, SIBLEY, & MENDOZA, L.L.P.
ATTORNEYS AND COUNSELORS AT LAW

February 11, 2005

Office of the Director
Federal Bureau of Investigation
935 Pennsylvania "Ave., N.W.
J. Edger Hoover Bldg
Washington, D.C. 20535-0001

Re: Criminal Complaint Filing - and request for investigation regarding ongoing conspiracy to violate 18 U.S.C § 2, § 242, and § 1204 as well as 42 U.S.C. § 1983 § 1985 and § 1986, to obstruct father's parental rights.

Greetings:

Please file this criminal complaint alleging ongoing violations above criminal and civil rights statutes, which has obstruct my parental rights to visitation since June 11, 2002, pursuant to a Joint Custody Settlement Agreement, of Article 2, 20, and 21 of the Hague Convention on the Civil Aspects of International Child Abduction dated October 25, 1980 ("Treaty"), and Joint Congressional Concurrent Resolution 293 dated March 2000 ("Congressional Resolution").

I request expedited consideration based on the record that on February 28, 2003, October 4, 2004, and October 14, 2004, I filed with United States Attorney Paul J. McNulty, both a request for investigation and a complaint

pursuant to 18 U.S.C. § 1204.[2] Subsequently, not only did the alleged illegal acts increase during the almost two years since the original complaint was filed, but on January 4, 2005, I received a letter from Mr. Robert A. Spencer, Chief, Crim. Div. ED Va, stating that his office could not find any such complaint, and directed me to file with your office anew.

This complaint is filed against the enterprise and individual listed as Defendant parties in the attach First Amended Verified Complaint.

BACKGROUND

On January 27, 2003, I, individually, and pursuant to VA Code § 3.01-8, as father and next of friend of his now almost sixteen-old Son Master Isidoro Rodriguez-Hazbun ("Isidoro"), originally filed a civil rights action against the abuse of governmental authority for the issuance of a Writ of Mandamus to the Defendant United States Department of State, and its employees ("U.S. Central Authority *et al.*"); as well as its contractor acting at all times as an "instrumentality of government," the Defendant the National Center for Missing and Exploited Children, its employees, agents and attorneys ("NCMEC *et al.*"), to order their compliance with their ministerial duties under Article 2, 20, and 21 of the Treaty, and Congressional Resolution to expeditiously secure Rodriguez and Isidoro's right of international visitations under the Joint Custody Settlement Agreement, prior to Isidoro's 16th birthday on March 10, 2005. *Isidoro Rodriguez, father of Isidoro Rodriguez-Hazbun*

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[1] 18 U.S.C. § 1204 - International parental kidnapping. (a) Whoever. . . retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title or imprisoned not more than 3 years, or both

v. National Center for Missing and Exploited Children, DC Dist Ct No. 03-0120 (Roberts, J).

Furthermore, in the above action I sought damages under *Bivens v. Six Unnamed Agents of the Federal Bureau of Investigation*, 403 U.S. 388 (1971)("*Bivens*"), the Federal Tort Claims Act 28 U.S.C. § 2671 *et al.* ("FTCA"), and 42 U.S.C. §§ 1985 and 1986, against the U.S. Central Authority *et al.* and the NCMEC *et al.*, for their wilful and negligent unauthorized policy and practice taught to Federal and Virginia judiciary that the Treaty usurped the fundamental Constitutional rights of U.S. citizens, causing the violations of: (a) Rodriguez and Isidoro's fundamental rights in their father/sons' relationship since July 13, 2001; (b) Isidoro's rights to the safety and opportunities of being in the United States and not be shanghaied to the Republic of Colombia ("Colombia") against his rights wishes on June 11, 2002; (c) obstruction with the lawful exercise of Rodriguez's parental rights for more than nine hundred and forty-five (945) days in violation of 18 U.S.C. §§ 4, 241 and 1204; and (d) Rodriguez's Fifth Amendment right to impartial access with the Federal courts for their meaningful consideration of the constitutional challenges to the unauthorized policies and practices of both Federal implementing state and regulations, in violation of rights on the U.S. Constitution and Treaty pursuant to 28 U.S.C. § 2403(a), Fed.R.AppP. 44, and United States Supreme Court Rule 29.4(a) and (b).

On February 7, 2005, I filed a First Amended Verified Complaint (attached) against the U.S. Central Authority and the NCMEC, based on the fact that subsequent to the filing two years ago of a Complaint I have discovered that with the motive of covering-up and continuing their unauthorized policy and practices, for the past 770 days the U.S. Central Authority et al. and the NCMEC et al., have compounded their earlier violations

Article III, § 2, Article IV § 2, and I, V, IX & XIV Amendments to the U.S. Constitution, Articles 13b, 20, and 29 of the Treaty, by undertaking a conspiracy with Defendant United States Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, and judges of both the Federal and Commonwealth of Virginia: (A) to violate 42 U.S.C. § 1983 et seq., and 18 U.S.C. § 1204 by obstructing the lawful exercise of my parental rights, including the right to have the U.S. Central Authority and the Courts of Virginia to expeditiously secure visitations pursuant to Articles 2, 11, 20, 21, and 29 of the Treaty, and UCCJEA VA Code § 20-146.25, subsequent to the shanghaiing of Isidoro from the United States on June 11, 2002; (B) in violation of Article 24 of the International Covenant on Civil and Political Rights ("ICCPR"), U.N.T.S. No. 14668, vol. 999 (1976), p. 171 (ratified June 1992), 18 U.S.C. § 4 and § 241 to repeatedly conceal their unlawful acts; and (C) in violation of the Racketeer Influence and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1961-68 (A), Article IV § 2, and the V Amendment to the Constitution to deprive and to damage my property right in my legal profession as an active member of the Virginia State Bar in good standing since 1982.

If either you or your staff have question please contact me by e-mail or my cell phone listed below.

Respectfully submitted

/s/

Isidoro Rodriguez, Esq.

cc: Criminal Section
U.S. Department of Justice, Civil rights Division
Mr. Paul J. McNulty, USA E/D. Va.
Mr. Robert A. Spencer, Chief, Criminal Division

HEARING BEFORE FIRST FAMILY COURT OF BARRANQUILLA, COLOMBIA
PROCESS: CUSTODY AND PERSONAL CARES
PLAINTIFF: AMALIN HAZBUN ESCAF
DEFENDANT: ISIDORO RODRIGUEZ CRUZ
MINOR: 1

In Barranquilla, on August first (1st) of Nineteen Ninety Seven (1997), during public hearing at the First Family Court, the Honorable Judge declares open the hearing in this process of CUSTODY AND PERSONAL CARES of AMALIN HAZBUN ESCAF vs. ISIDORO RODRIGUEZ CRUZ, on behalf of minor ISIDORO RODRIGUEZ HAZBUN. It is confirmed that both parties are present and their attorneys. At this stage of the hearing the Honorable Judge advice the parties to present an agreement or conciliation formula. Defendant Mr. ISIDORO RODRIGUEZ speaks and says: I propose the Joint Custody of my son ISIDORO RODRIGUEZ HAZBUN in the following manner:

That the mother AMALIN EMILIA HAZBUN ESCAF have him her personal cares but both parents share the rights of correction, moral and intellectual education of our minor child.

Regarding visitations I propose to pick up my son ISIDORO RODRIGUEZ HAZBUN every fifteen days at the end of school day on Friday for him to stay with me all that weekend, taking him back on Sunday at 7 pm to the house of his mother or on Monday if it is holiday, with his homework done and his complete luggage.

During the week days, this is Monday through Friday, I will pick up my son ISIDORO to take him to classes with the additional teacher assigned, and will pick him up at the class and continue with him until 7 pm, this when in that week it correspond to me his visitation spending the night with me, this is once a week. When there is no

visitation spending night with me besides picking him up on the day of the above noted classes I will pick him up on the day he has football classes once a week until the same hour, that means that in that week there will be two visitation days on week days. I want to add that in the case that for any circumstances there is not football class or writing class with the teacher, he will be with me anyway two working days in the week and in the other week one working day and will spend the weekend with me. Vacations will be shared as follows: The child will spend one year Carnivals with a parent and Holy Week with the other, mid year vacation since are longer jointly parents agree (.....) fifteen days with the mother. The end of year vacation this year the first fifteen days will be with the father permitting that if the minor is still with him for December 31st spend that date with his mother and go back with him to finish the vacation and this situation of the end of year vacation will alternate annually keeping always the spirit of sharing one of the two special dates of December 24 and 31st of each year. No discussion fathers' day he will spend it with his father and mothers' day with his mother. Regarding birthday of the child ISIDORO we will celebrate it jointly the parents with our son, making it clear that next celebration will be made by me.

Ms. AMALIN HAZBUN takes the word and states: I am totally in agreement with the formula offered by the defendant. The Honorable Judge takes the word to say. Since the parties have arrived to an agreement about the totality of the litigation, being such agreement in accordance with the law, it is approved and this process finished. It is just confirmed that at the non-compliance with the agreed hereby it will be applied by express statement of num. 4 of art. 350 of the Minor Code the sanctions provided on article 72 ibidem. No costs in this process. It is signed by all those who have intervened. The

parties wish to clarify that just for year 1988 the mother will have the minor during Carnivals as well as Holy Week.

The Judge:

s/_____
LUZ MYRIAM REYES CASAS, Judge
Plaintiff:
s/_____
AMALIN HAZBUN ESCAF
Defendant:
s/_____
ISIDORO RODRIGUEZ CRUZ
Attorney for Plaintiff
s/_____
LUZ MYRIAM SANCHEZ DE CARVAJAL
Attorney for Defendant
s/_____
MABEL CASTRO PALACIO
The Court Clerk
s/_____
ELVIA MAZA DE CANTILLO
s/_____
Serra Newman, Certified Translator, Lic. Ministry of Justice, Bogota Colombia, March 25, 1988-23/07/01

LAW OFFICES OF RODRIGUEZ
ATTORNEYS AND COUNSELORS AT LAW

July 9, 2005

Attorney General for the
Commonwealth of Virginia
900 East Main Street
Richmond, Virginia 2321
Pursuant to VA Code 8.01-195.6, by U.S. Postal Service
Certified Priority Express Mail, Return Receipt Requested
Item No. 7004-0750-0000-8170-5576

Subject: NOTICE OF TORT CLAIM against The Virginia Supreme Court, the Hon. Judge Robert William Wooldridge, Jr., the Fairfax County Circuit Court (Respondents)

Greetings:

This is a notice of claim pursuant to the provisions of the Virginia Tort Claims Act, VA Code §§ 8.01-195.1-195.9, filed against the above referenced Respondents on behalf of Isidoro Rodriguez, Esq.(Petitioner).

Respondents have repeatedly tortiously injured Petitioner by their intentional acts and omissions outside of their judicial authority or capacity in violation of Article I § 2, and § 11, Article IV § 15 and Article VI, § 5 of the Constitution of Virginia, the below cited sections to the Code of Virginia, Virginia Attorney General Opinion, 1996 Va AG 23, and the Fifth and Fourteenth Amendments to the United States Constitution. With a common purpose Respondents have deprived Petitioner of his rights to due process and equal protection of the laws in his property interest in his perfected Virginia Attorney's charging Lien

pursuant to VA Code § 54.1-3932 and *stare decisis*, and Petitioner's right of access to an impartial judiciary to protect his business and profession from a Business Conspiracy in violation of VA Code § 18.2-500, *Isidoro Rodriguez, Esq. vs. Guy Vander Jagt, Esq. et al.*, Fairfax County Circuit Court No. L215327; Virginia Supreme Court Record Nos. 040941 and 040942, mandate entered November 5, 2004.

NATURE OF THE CLAIM, VA Code § 8.01-195.6

In 1988 Petitioner was specifically retained as an active member of the Virginia State Bar by Sea Search Armada and Armada Company, HFP Inc.; IOTA Partners; Jack Harbeston; Edris E. Harbeston; Jerome Barron; and Murdock & Company ("SSA Entities"),[1] , to prosecute their contract claim against the Republic of Colombia. SSA Entities claims were described by Congressmen Dan Burton and Phil M. Crane in 1997, "as the largest private claim by American citizens against a foreign state pending in the world."

Two years after the filing of both contract litigation and administrative actions on behalf of SSA Entities against the Republic of Colombia, SSA Entities failed to pay invoices for services. Thus Petitioner sought and obtained

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[1] SSA Entities are a joint venture, whose only asset are Sea Search-Armada and Armada Company's claims to 15 treasure troves targets sunk in the territorial/international waters off the coast of Colombia valued at $10 Billion (*"Treasure Trove"*): (s) IOTA Partners LP, is an Idaho limited partnership organized by Jack Harbeston in 1988, for the sole purpose of the "salvage of treasure trove in or about Colombia," which is owned by Sea Search-Armada and Armada Company; (b) Murdock & Co., and James Barron are the main investor in IOTA Partners; (iii) HFP, Inc., is owned by Harbeston and incorporated in the State of Washington, to serve as the General Partner of IOTA Partners LP.

on February 27, 1990, Virginia Bar Legal Ethics Opinion #1325 (A-18)("VA Ethics Opinion"), which stated,

> . . . [Petitioner being] admitted to practice in Virginia is subject to the Virginia Code of Professional Responsibility although engaged in practice elsewhere . . . when [he] assumes the responsibility of acting as a fiduciary . . . **As such Rodriguez's suit for Attorney fees is permissible . . . to prevent fraud or gross imposition.** (Emphasis added)

After nearly ten years of successful litigation, in the Summer of 1998 SSA Entities' Congressional Lobbyist former Congressman Guy Vander Jagt surreptitiously negotiated a settlement of SSA Entities claims with as yet unknown parties ("John Does"). Upon information and belief, this settlement allegedly involved SSA Entities ceasing to lobby Congress each year since1986 to investigate the Republic of Colombia and for SSA Entities to provide support for the passage of Plan Colombia, which included $300 million of "soft money." Subsequently, suddenly and without any notice to Petitioner in June/July 2002 Sea Search-Armada and Armada Company surreptitious dissolved and fraudulently transferred their rights to their claims to15 treasure targets (except for the claim to the *Galleon San Jose),* to entities controlled by HFP Inc.; IOTA Partners; Jack Harbeston; Edris E. Harbeston; Jerome Barron; and Murdock & Company and various John Does.

Upon discovery of the above, in accordance with VA Ethics Opinion and Virginia Code § 54.1-3910, so to "prevent fraud [and] gross imposition," a First Amended Motion for Judgement was filed by Petitioner against SSA

Entities, their lobbyist and attorney,[2] on November 14, 2003. Petitioner sought pursuant to and VA Code § 54.1.3932, to enforce his substantive property rights in his perfected charging Virginia Attorney's Lien, for $4.6 million based on *quantum merit* for the more than twelve years of *pro hoc vice* fiduciary and legal management services to SSA Entities which at all times was under the jurisdiction of the Virginia State Bar. In addition, Petitioner included counts for violation of common law tort and Business Conspiracy pursuant to VA Code § 18.2-500, based on SSA Entities, their lobbyist and attorneys, and Petitioner's agent Danilo Devis, concerted acts with a common purpose to damage to Petitioner's business and profession by illegally depriving him of his substantive property rights.

In response, pursuant to the Fairfax Circuit Court's Rules SSA Entities' as well as their lobbyists and attorney filed motions to demurrer, although in both pleadings they disputed the facts stated in the First Amended Motion for Judgement. Petitioner filed a reply, and reconfirmed his demand for a jury trial pursuant Article I Sec. 11 of the Constitution and VA Code § 8.01-336(a).

Prior to the January 23, 2004 motions hearing before the Hon. Judge Robert William Wooldridge, Jr., Fairfax County Circuit Court, Petitioner submitted to the Court a copy of SSA Entities and Danilo Devis' recently filed Virginia Bar Complaint VSB Docket No. 04-052-0794, alleging that Petitioner violated Virginia Ethics Rules for the suing to enforce his Virginia Attorney's Lien pursuant to the

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[2]Virginia Rules of Professional Conduct, Rule 4.1, states that, "[i]n the course of representing a client a lawyer shall not knowingly: (a) Make a false statement of fact or law; or (b) fail to disclose a fact when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client. *See also* DR 7-102(A)(5) and DR 7-102(A)(3); Rule 1.6 and 3.3(a)(4).

1990 Virginia Bar Ethics Opinion. Thus the Hon. Judge Robert William Wooldridge, Jr., was advised by Petitioner that SSA Entities and Danilo Devis had entered an appearance into Virginia, had made false statements in its Bar Complaint and surreally had confessed that between 1990 to the present, that they repeated violated Petitioner's authority as Legal Representative under a Board of Director's Power of Attorney, i.e. the Bar Complaint evidenced that in furtherance of a conspiracy to injure Petitioner's business and profession, SSA Entities and Danilo Devis did: (a) interfered with Petitioner's Board of Director's delegated authority and powers; (b) did violate and disregard their respective fiduciary and legal duty to Petitioner; and, (c) did making of false statements to discredit and damage Petitioner's business and profession.[3]

On January 23, 2004, despite this record and the disputes of fact raised in the SSA Entities *et al.*, demurrers, without providing the demanded jury trial, the Hon. Judge Robert William Wooldridge, Jr., issued a summarily order granting Defendant Vander Jagt and Pledger demurrers and dismissed the action "with prejudice." One month later on February 27, 2004, again disregarding the above record, and without providing the repeatedly demanded jury trial the Hon. Judge Robert William Wooldridge, Jr., issued a summary order dismissing the action as to the other SSA Entities who had appeared (see below as to status of ongoing litigation against Danilo Devis).

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[3]Despite Petitioner both responded to all allegations and questions, as well as suppling supplemental information, to date after over 18 months of investigation by the Alexandria Bar Counsel and its Bar Committee, as well as Petitioner being called to meet with the VSB investigator in October 2004, no decision has been issued as to Petitioner's right to protect his property right.

The Hon. Judge Robert William Wooldridge, Jr., specifically refused repeated request by Petitioner to provide the legal basis for the Court's summary orders.

On appeal to the Supreme Court of Virginia, Petitioner briefed and presented argument on July 15, 2004, focusing on the General Assembly's statutory mandate in VA Code § 54.1-3932 and the Virginia and Federal Courts *stare decisis*, on the total rights to enforce an Attorney's Lien and right to protect his business and profession from a Business Conspiracy to commit fraud in violation of VA Code § 18.2-500.

In unpublished summary orders, on August 13, 2004, in Record No. 040941, and on October 12, 2004, Record No. 040942, the Supreme Court of Virginia denied the appeal so to affirm the summary demurrer of Hon. Judge Robert William Wooldridge, Jr. On November 5, 2004, the Supreme Court of Virginia denied the motion to stay issuance of the mandate.

During the above proceedings from November 2003 until the Summer of 2004, in accordance with VA Rule 3:5, and :17, and the Inter-American Convention on Letters of Rogatory, S. Treaty Doc. 98-27, 98th Cong., 2d Sess., (1984), pp. III-V, XI. ("Treaty"), Danilo Devis was being properly served in the Republic of Colombia the First Amended Motion for Judgment. On June 9, 2004, service was completed wherein Danilo Devis was advised for him to answer for his participation with Respondents Vander Jagt *et al.*, in their alleged Business Conspiracy in violation of VA Code § 18.2-500 to deprive Rodriguez of his property in his perfected VA Code § 54.1-3932 Attorney's Lien.

Although properly served and given notice in accordance with the Treaty and the laws of Virginia, Danilo Devis has failure to plead, answer or otherwise defend as required by law, permitting the filing of a motion for entry of an order of default. On February 25, 2005, the Hon.

Chief Judge Michael P. McWeeny, Fairfax County Circuit Court, issued an order granting the motion for default, granting discovery, and a jury trial on the issue of damages.

A jury trial on the issue of damages is scheduled for November 22, 2005, on the default judgement for the Business Conspiracy in violation of VA Code § 18.2-500 to injure Petitioner's business and profession and the depriving him of his substantive property right in his perfected VA Code § 54.1-3932 Attorney's Lien.

Respondents' action outside of judicial authority or capacity causing injury

The petitioner has been deprived of his substantive property right in his perfected Virginia statutory Attorney's Lien, causing injury by the repeated intentional acts of Respondents all outside of their respective official capacity or judicial functions by:

a. Issuing unpublished summary orders under Court Rules, in violation of VA AG Op 1996 Va Ag 23, November 19, 1996, dismissing the action thereby denying Petitioner of his substantive property rights granted by special legislation of the General Assembly to all other Virginia Attorneys VA Code § 54.1-3932 Attorney's Lien.

b. Issuing unpublished summary orders pursuant to Court Rules disregarding the mandate of the General Assembly by assumed away the record of ongoing violations of VA Code § 18.2-500, by the conspiracy to injure Petitioner's business and profession in depriving him of his substantive property right in his perfected VA Code § 54.1-3932 Attorney's Lien.

c. Intentionally depriving Petitioner of meaningful access to the Courts, and of his rights to due process and equal protection of the laws under the Constitution of Virginia by disregarding and refusing to comply with right to jury trial under Article I § 11.

d. Intentionally acting outside of their judicial

authority or capacity by issuing summary bench and written order disregarding the Virginia Courts own *stare decisis* regarding the mandate of the General Assembly of the Commonwealth of Virginia to at all times comply with the special legislation requiring the enforcement of a perfected charging Virginia Attorney's Lien.

e. Intentionally acting outside of their judicial authority or capacity in issuing summary bench and written order granting demurrers by disregarding the extensive record of the ongoing conspiracy to deprive Petitioner of the protection to his substantive property right in Petitioner's business and profession from the business conspiracy in violation of VA Code § 18.2-500.[4]

If I fail to hear from your office after six months, I will immediate file the necessary action to seek a trial by jury on all issues so to protect my substantive property rights.

Thank you.

Sincerely,

Isidoro Rodriguez, Esq.

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[4] The record of the skullduggery of SSA Entities, was demonstrated in the AP news article dated February 13, 2004, on the Supreme Court of the Republic of Colombia ruling against SSA Entities claim to the 1707 Spanish Galleon *San Jose,* but failing to discuss the other claimed 14 *Treasure Trove* targets. Not only were these assets fraudulent transferred in June 2002 when Sea Search-Armada and Armada Company dissolved, but too despite Vander Jagt's 1988 comments before Congress regarding the preventing of the "expropriation of the vested rights of Sea Search Armada," no protests were issued by either SSA Entities, U.S. Congress or U.S. Executive Branch.

[SEAL]
50 Years Public Service
Virginia State Bar
1938-1988

VIRGINIA STATE BAR
Tenth Floor, Ross Building, 301 East Main Street
Richmond, Virginia 2319 (804)786-2061
(804)736-5966 (Voice/TDD)
STANDING COMMITTEE ON LEGAL ETHICS

February 27, 1990
PERSONAL AND CONFIDENTIAL

Isidoro Rodriguez C., Esquire
Calle 84 No. 56-51
Piso 2, Oficina 4
Barranquilla, Colombia S.A.

Re: Legal Ethics Opinion # 1325

Dear Mr. Rodriguez:

I am writing in response to your letter dated January 3, 1990, requesting an informal advisory opinion from the Virginia State Bar Standing Committee on the Legal ethics ("committee").

You have advised that, although you are a member of the Virginia State Bar, you reside and practice in a South American country. You further indicate that you entered into an agreement, which was executed in Idaho, to represent a foreign corporation in the negotiation, settlement, and/or litigation against a foreign government resulting from the corporation'sclaim as finder of a shipwreck which contained an estimated $3 billion in treasure. The agreement provided for an hourly fee rate, costs, and monthly detailed invoices and was affirmed by the corporation's Board of Directors which also named you

as Legal Representative for the corporation. You have described for the committee that a Legal Representative In the country in which you practice is distinct from an attorney at law and is the commercial. representative for the company in that country with all of the corporate powers of the Board of Directors and all, of the potential individual liability. Furthermore, such a Legal Representative is not required to be an attorney at law. Subsequent to those corporate actions, you were authorized to bring a legal action against the foreign government and you authorized your then-law partner, which partnership has subsequently been dissolved, to file the suit as Attorney of Record. The facts you have provided indicate that the suit was filed shortly after you authorized your partner to do so.

You indicate that, although much time has been expended on the case and the corporation repeatedly expressed satisfaction with the work being performed by your firm, the corporation has failed to comply with its contractual agreement to pay invoices after they were presented. Specifically, the corporation agreed to pay $10,000 approximately two months after suit was filed and an additional $50,000 within 30 days thereafter. Thefirst payment ($l0,000) was made as scheduled, but no further payments have been made by the corporation. Subsequent to that first payment, the corporation requested a contingent fee agreement be submitted for consideration; such a contract was prepared and submitted, but the corporation has not responded.

In addition to the failure to pay fees, you indicate that the corporation, without your knowledge, sent a defamatory letter against the foreign government which then prepared an official protest to the United States Embassy. You indicate that the letter accused the government and unnamed officials of criminal acts,

subjecting you, as the corporation's Legal Representative, to civil liability and both you and your former law partner to physical danger.

As a result of both issues, failure to pay fees and costs owed and the defamatory latter, you requested that the corporation retain a new Legal representative and a new attorney. You indicate that to date you have not received any response from the corp-oration's Board of Directors.

Finally, you advise that under the law and professional norms of the foreign government, your former 1ev partner has a right to unilaterally and voluntarily withdraw from the litigation, without any requirement to seek permission of the trial court. You indicate that he may also file a civil suit against the corporation for monies owed during or after litiga-tion. Your former partner has not exercised those rights pending your receipt of this informal advisory opinion.

You have asked that the committee opine as to the propriety of your renunciation of your fiduciary appointment as Legal Representative to the corporation in view of the non-payment of costs and fees owed and of the defamatory letter sent by the corporation to the foreign government. You have further inquired as to the propriety of your instituting suit against the corporation for their non-payment of fees and costs owed.

The appropriate and controlling rules relative to your questions are DR l-102(A)(4) which prohibits a lawyer from engaging "in conduct involving dishonesty, fraud, deceit, or misrepresentation which reflects adversely on [the] lawyer's fitness to practice law"; DR 2-l08(B)(2, 3, and 4) which proscribe the conditions which permit a lawyer to withdraw from representing a client; DR 2—108©) which directs that counsel of record in a court proceeding may not withdraw except by leave of court after notice to the client of the timeand place of a motion for

leave to withdraw; and DR1-102(B) which instructs that a lawyer admitted to practice in Virginia is subject to the Virginia Code of Professional Responsibility although engaged In practice elsewhere, unless disciplinary rules of the foreign jurisdiction permit the activity [emphasis added].

The committee is of the opinion that the provisions of DRI-l02(A)4) embrace far more than an attorney's conduct in the context of an attorney/client relationship. Thus, the committee opines that when an attorney assumes the responsibility of acting as a fiduciary and violates his or her duty in a manner that would justify disciplinary action had the relationship been that of attorney/client, the attorney may be properly disciplined pursuant to the Code of Professional Responsibility. The committee thus specifically adopts the conclusions reached in ABA Formal Opinion 336. See also: State. v Freeman, 229 Kan. 639, 629 P.2d 716 (1981); and Committee on Professional Ethics v. Gross, 322 N.V2d 82 (Iowa 1982).

Virginia Disciplinary Rule 2-108(B), subsections (2), (3), and (4), directs that a lawyer may withdraw from representing a client if (2) the client persists in a course of conduct involving the lawyer's services that the lawyer reasonably believes is illegal or unjust; (3) the client fails to fulfill an obligation to the lawyer regarding the lawyer's services and such failure continues after reasonable notice to the client; or (4) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client. The committee is of the opinion that, under the facts you have provided, it would n6t be improper to move to withdraw as Legal Representative for the corporation. See also LEO #974. The committee understands, however, from your recitation of the facts, that such permission of the court is not required in the foreign country in which you practice.

Under those circumstances, the committee directs your attention to DR 1-102(B) which, as noted above, would control. Therefore, if the professional norms in that country permit unilateral and voluntary withdrawal from representation without authorization by the court, it would not be improper for you to act accordingly.

The committee has earlier opined that there is no disciplinary rule ethically prohibiting an attorney from bringing an action against his client for past-due attorney's fees end costs. See LEOs #974 and 995. Guidance I available under Ethical Consideration 2-25 which urges that a lawyer should not sue a [current] client for a fee unless necessary to prevent fraud or gross imposition by the client. See LEO 11117. But see LEOs #1230 and 1257.

This opinion is advisory only, based only on the facts you presented and not binding on any court or tribunal.

Very truly yours,

/s/

Kathleen O'Brien

Encl.

cc: C. Torrence Armstrong. Esquire
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